6-10-92
Vol. 57 No. 112

federal register

Wednesday
June 10, 1992

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

SECOND CLASS NEWSPAPER

Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

6-10-92
Vol. 57 No. 112
Pages 25439-24748

federal register

Wednesday
June 10, 1992

Briefing on How To Use the Federal Register
For information on a briefing in Chicago, IL, see announcement on the inside cover of this issue.

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The seal of the National Archives and Records Administration authenticates this issue of the **Federal Register** as the official serial publication established under the Federal Register Act. 44 U.S.C. 1507 provides that the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** will be furnished by mail to subscribers for $340 per year in paper form; $195 per year in microfiche form; or $37,500 per year for the magnetic tape. Six-month subscriptions are also available at one-half the annual rate. The charge for individual copies in paper or microfiche form is $1.50 for each issue, or $1.50 for each group of pages as actually bound, or $175.00 per magnetic tape. Remit check or money order, made payable to the Superintendent of Documents. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954, or charge to your GPO Deposit Account or VISA or Mastercard.

There are no restrictions on the republication of material appearing in the **Federal Register**.

How To Cite This Publication: Use the volume number and the page number. Example: 57 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	202–783–3238
Magnetic tapes	512–2235
Problems with public subscriptions	512–2303

Single copies/back copies:

Paper or fiche	783–3238
Magnetic tapes	512–2235
Problems with public single copies	512–2457

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	523–5240
Magnetic tapes	512–2235
Problems with Federal agency subscriptions	523–5243

For other telephone numbers, see the Reader Aids section at the end of this issue.

THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

CHICAGO, IL

WHEN: June 16; 9:00 a.m.
WHERE: Room 328
Ralph H. Metcalfe Federal Building
77 W. Jackson
Chicago, IL
RESERVATIONS: Call the Federal Information Center,
1–800–366–2998

Contents

Federal Register

Vol. 57, No. 112

Wednesday, June 10, 1992

Separate Parts In This Issue

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Federal Register
Vol. 57, No. 112
Wednesday, June 10, 1992

Presidential Documents

Title 3—

The President

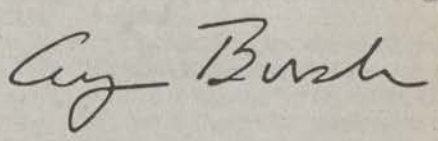
Presidential Determination No. 92–29 of June 2, 1992

Determination Under Section 402(d)(1) of the Trade Act of 1974, as Amended—Continuation of Waiver Authority

Memorandum for the Secretary of State

Pursuant to the authority vested in me under the Trade Act of 1974, as amended, Public Law 93–618, 88 Stat. 1978 (hereinafter "the Act"), having determined, pursuant to section 402(d)(1) of the Act, 19 U.S.C. 2432(d)(1), that the further extension of the waiver authority granted by section 402(c) of the Act will substantially promote the objectives of section 402 of the Act, I further determine that the continuation of the waiver applicable to the People's Republic of China will substantially promote the objectives of section 402 of the Act.

You are authorized and directed to publish this determination in the **Federal Register.**



THE WHITE HOUSE,
Washington, June 2, 1992.

[FR Doc. 92–13814
Filed 6–8–92; 3:17 pm]
Billing code 3195–01–M

Rules and Regulations

Federal Register
Vol. 57, No. 112
Wednesday, June 10, 1992

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 947

[Docket No. FV-92-0491FR]

Oregon-California Irish Potatoes; Interim Final Rule to Relax Pack Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule relaxes the pack regulations for Oregon-California Irish potatoes to allow handlers to ship U.S. No. 2 grade Irish potatoes, weighing at least 10 ounces, in 50-pound cartons. This action will enable handlers to ship a substantial amount of this season's U.S. No. 2 grade potatoes in cartons, thus meeting customer demands and maximizing grower returns.

DATES: This interim final rule is effective on June 10, 1992. Comments which are received by July 10, 1992 will be considered prior to finalization on this interim final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this action. Comments must be sent in triplicate to the Docket Clerk, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523-S, P.O. Box 96456, Washington, DC 20090-6456. Comments should reference the date and page number of this issue of the Federal Register and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Kathleen M. Finn, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2523-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2170.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under Marketing Agreement and Order No. 947 (7 CFR part 947), as amended, regulating the handling of Irish potatoes grown in Oregon (except Malheur County) and certain counties in California. The marketing agreement and order are authorized by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This rule has been reviewed by the U.S. Department of Agriculture in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This interim final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After a hearing the Secretary would rule on the petition.

The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this interim rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 50 handlers of Oregon-California potatoes subject to regulation under the marketing order and approximately 470 producers in the production area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of the Oregon-California potato producers and handlers may be classified as small entities.

The handling requirements for fresh Oregon-California potatoes are specified in 7 CFR 947.340 (56 FR 55984, October 31, 1991). Current requirements specify a minimum grade of U.S. No. 1 (with additional tolerances for damage by hollow heart and/or internal discoloration and for serious damage by internal defects) for potatoes packed and shipped in 50-pound cartons. U.S. No. 2 grade potatoes are shipped in other kinds of containers. Potatoes shipped to points within the continental United States are required to be at least 2 inches in diameter or 4 ounces in weight, and potatoes shipped to export destinations must be at least 1⅛ inches in diameter. Also, red-skinned varieties of potatoes may be shipped without regard to a minimum size requirement, if they otherwise grade at least U.S. No. 1. Non-red-skinned varieties of potatoes that are 1¾ inches in diameter or less may be shipped if they grade at least U.S. No. 1.

At a meeting held on March 4, 1992, the Oregon-California Potato Committee (committee), the agency responsible for local administration of the marketing order, recommended, by a 10-1 vote, a change in the pack regulation.

Currently, potatoes packed in 50-pound cartons are required to grade at least U.S. No. 1, except that potatoes that fail to meet the U.S. No. 1 grade only because of hollow heart and/or internal discoloration may be shipped, provided that no more than ten percent hollow heart and/or internal

discoloration is present or not more than five percent serious damage by internal defects. Customers have been requesting U.S. No. 2 grade potatoes in 50-pound cartons because the currently used 50-pound burlap sacks and paper bags are messy, unsanitary and do not stack well on pallets. Some retail and restaurant trade buyers have complained that burlap sacks are dirty and can shed fibers. Further, paper bags can tear before arriving at their destination.

Many customers now purchase potatoes from other areas where U.S. No. 2 grade potatoes are packed in 50-pound cartons. The committee would like to respond to these changing market conditions so handlers will not lose sales.

The committee member opposing the recommendation was concerned that the lower grade (U.S. No. 2) potatoes would compete against U.S. No. 1 grade potatoes packed in 50-pound cartons, thus lowering the price received for 50-pound cartons of the modified U.S. No. 1 grade potatoes, causing marketing problems. The remainder of the committee does not believe that pricing or other marketing problems will result from this relaxation in pack requirements. The committee recommended that only 10-ounce or larger U.S. No. 2 grade potatoes be shipped in 50-pound cartons. For these reasons, carton prices should remain at levels which will not weaken the prices for U.S. No. 1 or better grade potatoes packed in cartons.

This action authorizes Oregon-California potato handlers to ship U.S. No. 2 grade potatoes, weighing at least 10 ounces, in 50-pound cartons. This action will increase overall potato shipments from the production area, increase financial returns to the industry and satisfy customer needs.

Based on the above, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) The committee would like the recommendation effective in May of 1992, so handlers can market inventories of U.S. No. 2 grade potatoes currently on hand; (2) this action would relax requirements; (3) potato shippers are aware of this action which was recommended at an open meeting by the committee; (4) there is no special preparation required of affected handlers; and (5) this interim final rule provides a 30-day comment period and all comments timely received will be considered prior to finalization of this action.

List of Subjects in 7 CFR Part 947

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 947 is amended as follows:

PART 947—IRISH POTATOES GROWN IN MODOC AND SISKIYOU COUNTIES, CALIFORNIA, AND IN ALL COUNTIES IN OREGON, EXCEPT MALHEUR COUNTY

1. The authority citation for 7 CFR part 947 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 947.340 is amended by revising paragraph (e) to read as follows:

§ 947.340 Handling regulation.

* * * * *

(e) *Pack.* Potatoes packed in 50-pound cartons shall be either: (1) U.S. No. 1 grade or better, except that potatoes that fail to meet the U.S. No. 1 grade only because of hollow heart and/or internal discoloration may be shipped provided the lot contains not more than 10 percent damage by hollow heart and/or internal discoloration, or not more than 5 percent serious damage by internal defects; or (2) U.S. No. 2 potatoes weighing at least 10 ounces.

* * * * *

Dated June 4, 1992.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92–13602 Filed 6–9–92; 8:45 am]

BILLING CODE 3410–02–M

Food Safety and Inspection Service

9 CFR Parts 317 and 381

[Docket No. 88–032F]

[RIN 0583–AB00]

Elimination of Jar Closure Requirements for Meat and Poultry Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending the Federal meat and poultry products inspection regulations by eliminating the current requirements for jar closures. Under the present regulations, vacuum-packed containers that are sealed with quick-twist, screw-on, or snap-on lids must either not have an annular space between the lid and the container, or the annular space must be sealed. The Agency is eliminating this requirement because it increases production cost and there is no evidence that it provides any public health and safety benefits.

EFFECTIVE DATE: July 10, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. William C. Smith, Director, Processed Products Inspection Division, Science and Technology, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 720–3840.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has determined that this final rule is not a "major rule" under Executive Order 12291. It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. The final rule concerns the packaging of meat and poultry products. States and local jurisdictions are preempted under the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA) from imposing marking, labeling, packaging, or ingredient requirements in addition to, or different than, those imposed under the FMIA and the PPIA. Any State or local jurisdiction may, consistent with the requirements under the FMIA and the PPIA, exercise concurrent jurisdiction over meat and poultry products that are outside official establishments for the purpose of preventing the distribution of meat and poultry products which are adulterated or misbranded, or, in the case of imported articles, which are not at such

an establishment, after their entry into the United States.

This rule is not intended to have retroactive effect. Prior to any judicial challenge to the provision of this rule or the application of its provision, all applicable administrative procedures must be exhausted. Those administrative procedures are set forth in § 306.5 of the Federal meat inspection regulations (9 CFR 306.5) and § 381.35 of the Poultry products inspection regulations (9 CFR 381.35).

Effect on Small Entities

The Administrator, FSIS, has determined that this final rule will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601). The effect of this final rule is to remove a cost that currently restricts competition by both large and small businesses. Certain establishments making products that are not subject to FSIS inspection could expand production lines to include meat and poultry products without having to invest in additional jar-closure equipment. However, the number of small entities known to the Agency that are likely to benefit from the proposal is not substantial. Therefore, the final rule will not have a significant effect on a substantial number of small entities.

Background

As part of its responsibility to assure that meat and poultry products are wholesome and not adulterated, FSIS enforces regulations governing the packaging of processed meat and poultry products, including meat and poultry products in vacuum-packed glass containers. Section 317.23 (redesignated from § 317.19 on November 30, 1990, 55 FR 49833) of the Federal meat inspection regulations (9 CFR 317.23) and § 381.143 of the poultry products inspection regulations (9 CFR 381.143) are identically worded as follows: "Vacuum packed containers sealed with quick-twist, screw-on, or snap-on lids (or closures) shall not have an annular space between the inner edge of the lid's rim (lip or skirt) and the container itself or shall have such space sealed in a manner that will make it inaccessible to filth and insects." An annular space is the area between the glass finish and the lid of a jar.

The existing regulations were promulgated on June 10, 1974, (39 FR 20369) by the Animal and Plant Health Inspection Service (APHIS—predecessor Agency to FSIS). They became effective on December 10, 1977, allowing time for affected manufacturers to comply.

In the early 1970's, the most common closure for vacuum-packed product in glass jars was the quick-twist cap. This closure, commonly referred to as a "lug cap," is still widely used for products other than meat and poultry. A glass jar equipped with the quick-twist cap has a relatively large annular space inherent in its design. The current regulations were developed following consumer complaints regarding insect infestation in the annular space of some baby food jars sealed with quick-twist closures.

Today, however, the baby food industry uses only the press twist (PT) type of cap. Jars with PT caps do not present the same level of concern as jars sealed with quick-twist closures because they have a much smaller annular space than jars sealed with a quick-twist closure. This is evidenced by the fact that there has been no repetition of the 1970's baby food contamination incidents since that industry began using the PT cap. Moreover, the Agency believes that when the existing regulations are rescinded, there will be no compelling reasons to discontinue the use of the PT cap. In fact, the popularity of this closure is such that processors of baby foods use it for their nonamenable products.

Meat and poultry products other than baby food that are vacuum packed in jars are sealed with PT caps or are packaged by some other method that is in compliance with the current regulations. For example, one widely used method involves the use of plastic shrink band with the quick-twist closure; the shrink band seals off the annular space.

The Food and Drug Administration (FDA) did not promulgate similar rules regarding jar closure requirements. Thus, the quick-twist cap without a secondary seal is still used with many FDA-regulated products, which do not contain meat or poultry. According to FDA, there has not been any evidence of annular space contamination problems. But, when manufacturers of such food products wish to pack meat or poultry items, they must convert their entire operation to new containers and closures, add a distinct production line for meat and poultry products, or invest in the equipment and labor needed to apply secondary seals.

Proposed Rule

On August 26, 1991, FSIS published a proposed rule (56 FR 41967) to amend the Federal meat and poultry products regulations by eliminating the jar closure requirements at 9 CFR 317.19 (since redesignated as 9 CFR 317.23) and 9 CFR 381.143. The Agency was petitioned on July 11, 1988, by the National Food Processor Association (NFPA) to take this action.

The petitioner argued that the requirements were no longer necessary to prevent contamination and that they imposed unwarranted costs on manufacturers wishing to prepare products with meat and poultry. There are no comparable jar closure requirements for non-meat and non-poultry products regulated by the FDA. The NFPA cited the costs involved in purchasing new equipment to comply with the requirements, including the equipment needed to apply plastic shrink bands over quick-twist jar caps. The association also cited slowed production rates caused by the application of the shrink bands. The shrink bands are wet when applied, and then the jars are placed in climate-controlled rooms. In addition to permitting the bands to become dry and secure, this helps to prevent yeast or mold contamination underneath them. Production and shipping delays result from the time needed to dry the shrink bands.

The NFPA further noted that the FDA had not been aware of any recent complaints of infestation in the annular space of jars with the quick-twist closures. Before FSIS published the proposed rule, FDA confirmed that it had received no complaints of such infestation with respect to products in its jurisdiction since the 1988 NFPA petition. No human illnesses have been traced to the use of quick-twist jar lids. The absence of recent data demonstrating a current problem was the major consideration in the FSIS decision to proceed with the proposed rulemaking. Further, FSIS agreed that there were substantial costs involved in complying with the regulations.

Comments

The Agency received three comments, including one from the petitioner, all strongly supportive of the proposal. One commenter and the petitioner reported that compliance with the current regulation by applying a secondary seal actually increased the chance of microbial growth and infestation in the area the seal is intended to protect. The petitioner and the other commenter stressed the fact that the FDA has never imposed similar requirements for jar closures, even though there is a much greater volume of FDA-regulated product vacuum packed in glass jars equipped with the quick-twist closure. Rescission of the current FSIS regulations on jar closures would bring FSIS and FDA regulations into greater harmony. They also noted that the costs

of compliance with the current FSIS regulations can be substantial. The petitioner observed that buying secondary seal application equipment can more than double the annual capital equipment budget for a small processor.

The jar closure requirements for meat food products were redesignated from 9 CFR 317.19 to 9 CFR 317.23 as part of the final rule on net weight requirements published November 30, 1990 (55 FR 49833). The Agency is now amending the Federal meat and poultry regulations by removing and reserving 9 CFR 317.23 and 381.143.

List of Subjects

9 CFR Part 317

Meat inspection, Labeling, Marking devices, and Containers, Jar closure requirements.

9 CFR Part 381

Poultry products inspection, Labeling and containers, Jar closure requirements.

Final Rule

For the reasons set out in the preamble, parts 317 and 381 of the Federal meat and poultry products inspection regulations (9 CFR 317 and 381) are amended as set forth below:

PART 317—LABELING, MARKING DEVICES, AND CONTAINERS

1. The authority citation for 9 CFR part 317 continues to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.17, 2.55.

§ 317.23 [Removed]

2. Section 317.23 is removed and reserved.

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

3. The authority citation for 9 CFR part 381 continues to read as follows:

Authority: 7 U.S.C. 450; 21 U.S.C. 451–470; 7 CFR 2.17, 2.55.

§ 381.143 [Removed]

4. Subpart N of part 381 is amended by removing and reserving § 381.143.

Done at Washington, D.C., on June 2, 1992.

H. Russell Cross,

Administrator, Food Safety and Inspection Service.

[FR Doc. 92–13600 Filed 6–9–92; 8:45 am]

BILLING CODE 3410–DM–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 3

[Docket No. 92N–0243]

Food and Drug Industry Exchange Meetings on Combination Products Jurisdiction; Notice of Public Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meetings.

SUMMARY: The Food and Drug Administration (FDA) will hold a series of industry exchange meetings. These meetings will provide a forum to discuss new agency policies, requirements, and regulations which are being implemented to enforce the Safe Medical Devices Act (the SMDA) of 1990.

DATES: The industry exchange meetings will be held on Thursday, June 11, 1992, 8:15 a.m. to 3:30 p.m.; Wednesday, June 24, 1992, 8:30 a.m. to 4:30 p.m.; Monday, June 29, 1992, 1 p.m. to 5 p.m.; Tuesday, July 7, 1992, from 8:15 a.m. to 3:30 p.m.; Monday, July 20, 1992; and Tuesday, September 15, 1992.

ADDRESSES: The industry exchange meetings will be held at the following locations:

June 11, 1992: The LaGuardia Marriott Hotel, 102–05 Ditmars Blvd., East Elmhurst, NY.

June 24, 1992: Engineer's College of Puerto Rico, Rm. "Salon Salvador V. Caro," Calle Antonlin Nin, Hato Rey, PR.

June 29, 1992: National Transportation Systems Center, 55 Broadway-Kendall Sq., Cambridge, MA.

July 7, 1992: The Sheraton Los Angeles Airport Hotel, 6101 West Century Blvd., Los Angeles, CA.

July 20, 1992, Denver CO, and September 15, 1992, Philadelphia, PA. The specific locations and times for these two remaining meetings will be announced at a later time.

FOR FURTHER INFORMATION CONTACT: Jeanne White, Office of Small Business, Scientific, and Trade Affairs (HF–51), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6776.

Those persons interested in attending these meetings should call the contact person listed above to preregister. Early registration is suggested because meeting space is limited.

SUPPLEMENTARY INFORMATION: FDA is holding a series of meetings to explain to the industry the recently issued Product Jurisdiction Regulation, and accompanying Inter-Center Agreements. Senior representatives from FDA's Centers for Biological Evaluation and Research (CBER), Drug Evaluation and Research (CDER) and Devices and Radiological Health (CDRH) will discuss the Inter-Center Agreements. The meetings will be co-sponsored by these Centers and the Office of Small Business, Scientific, and Trade Affairs, Office of the Commissioner.

The three Inter-Center Agreements specify how the Centers will handle specific products or classes of products that may present jurisdictional issues. In addition, the Agreement between CDER and CBER provides for certain products that may present jurisdictional questions.

The successful implementation of these new measures will not depend only on ensuring that members of the regulated industries are well informed, but also on getting feedback on the impact of this regulation and the various complex issues that may still need resolution. This also will be an opportunity to raise issues or concerns about the approval process.

Dated: June 5, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92–13740 Filed 6–8–92; 11:59 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

31 CFR Part 26

United States Government Procedures for the Consideration of Environmental Impact Assessments for Multilateral Development Bank Projects

AGENCY: Departmental Offices, Treasury.

ACTION: Temporary rule; request for public comment.

SUMMARY: This document establishes temporary procedures governing the availability of environmental information on projects of multilateral development banks, comments on such projects, and the consideration by the U.S. Government of such information and comments. Section 1307(d) of the International Financial Institutions Act requires the Secretary of the Treasury to prescribe procedures for the consideration of comments on such environmental information in order to develop the U.S. Government position on such projects.

DATES: This temporary rule is effective June 10, 1992. Written comments must be received by July 31, 1992.

ADDRESSES: Send comments (preferably 3 copies) to: Office of Multilateral Development Banks, room 5400, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220, Attn: Priscilla S. Coburn.

FOR FURTHER INFORMATION CONTACT: Priscilla S. Coburn, Office of Multilateral Development Banks, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington DC 20220 (202–622–0765, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

Section 1307 of the International Financial Institutions Act (22 U.S.C. 262m–7), as added by section 521 of Public Law 101–240 (December 19, 1989), imposes certain requirements concerning the review by the U.S. Government of certain actions proposed to be taken by multilateral development banks (MDBs) when those actions will have a significant effect on the human environment.

Section 1307(d) requires the Secretary of the Treasury, in determining the position of the U.S. Government on any action which is proposed to be taken by a MDB and which would have a significant effect on the environment, to develop and prescribe procedures for the consideration of an environmental impact assessment (EIA), interagency and public review of the EIA, and other environmental review of such action otherwise required by law. Section 1307(c) provides that either an EIA or a comprehensive summary thereof (prepared pursuant to section 1307(a)) serve as the basis for interagency review. Together, subsections (c) and (d) provide that the requirement for U.S. Government and public review is satisfied by circulating a comprehensive summary of an EIA and making the full EIA available upon request.

The primary purpose of the environmental assessment and comment process is to encourage a borrowing country to conduct a wide-ranging and detailed environmental assessment, including consultation and full sharing of information with local non-governmental organizations and affected parties. The U.S. Government is working toward this goal by strongly encouraging each MDB to ensure that such public disclosure occur before the MDB Executive Directors vote on a particular project. The U.S. Government also is working to ensure that the public will have direct access to EIAs and summaries thereof at the MDBs and in the borrowing countries, without the U.S. Government's acting as intermediary.

Request for Comments

Before the final adoption of these procedures, consideration will be given to any written comments submitted by July 31, 1992 to the address specifed above. All comments will be available for public inspection and copying in their entirety.

Special Analyses

Because this document concerns a foreign affairs function of the United States, neither a notice of proposed rulemaking nor a delayed effective date is required pursuant to 5 U.S.C. 553(a)(1), and the provisions of Executive Order 12291 do not apply. Moreover, the Department of the Treasury has determined that delaying the establishment of procedures governing the environmental review of and comment on MDB projects would be contrary to the public interest. Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Drafting Information

The principal authors of this document are Priscilla s. Coburn, Office of Multilateral Development Banks, Department of the Treasury; and David D. Joy, Office of the Assistant General Counsel (International Affairs), Department of the Treasury. Other personnel in the Department of the Treasury participated in the development of this document.

List of Subjects in 31 CFR Part 26

Environmental impact statements, Environmental Protection, Foreign relations.

Part 26 is added to 31 CFR subtitle A, to read as follows:

PART 26—ENVIRONMENTAL REVIEW OF ACTIONS BY MULTILATERAL DEVELOPMENT BANDS (MDBs)

Sec.

Authority: 22 U.S.C. 262m–7, 31 U.S.C. 321.

§ 26.1 Purpose.

This part prescribes procedures for the environmental review of, and comment by Federal agencies and the public on, proposed projects of multilateral development banks (MDBs).

§ 26.2 Availability of project listings.

(a) The Office of Multilateral Development Banks of the Department of the Treasury (hereinafter "MDB Office") will ensure that the Environmental Protection Agency (EPA), the Council on Environmental Quality (CEQ), the Department of State, the Agency for International Development (AID), the National Oceanic and Atmospheric Administration (NOAA), and the Bank Information Center (BIC) (which is a private, nongovernmental organization located in Washington, DC), receive copies from each multilateral development bank (MDB) of project listings describing future MDB projects and assigning environmental categories based on the environmental impact of each project. If an MDB has not provided a project listing to one of these entities, these entities may obtain the project listing by contacting the MDB Office, 1500 Pennsylvania Avenue NW., Washington, DC 20220, (202) 622–0765.

(b)(1) Members of the public may obtain copies of project listings from the BIC, 2025 Eye Street NW., suite 522, Washington, DC 20006 ((202) 466–8191, not a toll-free call).

(2) If a copy is not available from the BIC, members of the public may arrange to review and/or copy a project listing by contacting the MDB Office which will make a copy available at the Department of the Treasury Library, 1500 Pennsylvania Avenue NW., Washington, DC ((202) 622–0990, not a toll-free call). Members of the public are advised that they must make an appointment with the Treasury Library before they visit and that a charge (currently 15 cents per page) is imposed for the use of the library photocopier.

§ 26.3 Availability of Environmental Impact Assessment Summaries (EIA Summaries) and Environmental Impact Assessments (EIAs).

(a) *EIA summaries.* (1) The MDB Office will provide for the distribution of EIA Summaries to the entities identified in section 26.2(a).

(2) (i) Members of the public may obtain copies of EIA Summaries from the BIC, 2025 Eye Street, NW., suite 522, Washington, DC 20006 ((202) 466–8191, not a toll-free call).

(ii) If a copy of an EIA Summary is not available from the BIC, members of the

public may arrange to review and/or copy an EIA Summary by contacting the MDB Office at (202) 622–0765 (not a toll-free call), which will make a copy available at the Department of the Treasury Library, 1500 Pennsylvania Avenue NW., Washingon, DC. Members of the public are advised that they must make an appointment with the Treasury Library (202) 622–0990) before they visit, and that a charge (currently 15 cents per page) is imposed for the use of the library photocopier. To the extent possible, EIA Summaries will be available for review and copying at least 120 days before scheduled consideration of a project by the MDB Executive Directors.

(b) *EIAs*—(1) *The African Development Bank, the European Bank for Reconstruction and Development, and the Asian Development Bank.* Arrangements to review an EIA may be made by contacting the MDB Office ((202) 622–0765 (not a toll-free call)), which will obtain a copy of the EIA through the Office of the United States Executive Director of the appropriate MDB and make it available for review and copying in the Department of the Treasury Library. Members of the public are advised that they must make an appointment with the Treasury Library, ((202) 622–0900 (not a toll-free call), before they visit, and that a charge (currently 15 cents per page) is imposed for the use of the library photocopier.

(2) *The International Bank for Reconstruction and Development, the International Development Association, and the Inter-American Development Bank.* (i) Members of the public may review EIAs at the public reading room of the concerned MDB.

(ii) If a particular MDB does not have a public reading room, members of the public may arrange to review and/or copy an EIA by contacting the MDB Office ((202) 622–0765 (not a toll-free call)), which will obtain a copy through the Office of the United States Executive Director of the concerned MDB and make it available in the Department of the Treasury Library, 1500 Pennsylvania Avenue NW., Washington, DC. Members of the public are advised that they must make an appointment with the Treasury Library ((202) 622–0990 not a toll-free call) before they visit, and that a charge (currently 15 cents per page) is imposed for the use of the library photocopier.

§ 26.4 Comments on MDB projects.

(a) *Public comments*—(1) *Written comments* (i) A member of the public wishing to provide written comments on a MDB project must provide 2 copies of the comments to the Office of Multilateral Development Banks, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW., room 5400, Washington, DC 20220. Written comments should be submitted not later than two weeks after the member of the public has access to the particular document on which it wishes to offer comments—either the project listing, the EIA Summary, or the EIA for a particular project. Written public comments will be provided by the MDB Office to the U.S. Government agencies participating in meetings of the Working Group for Multilateral Assistance (WGMA), which meetings are described in § 26.4(c). The WGMA is an intergovernmental subcommittee of the Development Coordination Committee whose functions are set forth in the Presidential announcement of May 19, 1978, Vol. 14, No. 20, p. 932 of the Weekly Compilation of Presidential Documents. The WGMA meets to discuss the U.S. position on upcoming MDB projects.

(ii) All written comments will be available for inspection and copying in their entirety in the Department of the Treasury Library, 1500 Pennsylvania Avenue NW., Washington, DC ((202) 622–0990). Members of the public are advised that they must make an appointment with the Treasury Library before they visit, and that a charge (currently 15 cents per page) is imposed for the use of the library photocopier.

(2) *Oral comments.* Oral comments from a member of the public may be made in periodic meetings convened by the BIC. Information concerning these meetings may be obtained by contacting the BIC or the MDB Office. The MDB Office will summarize and present such comments in the WGMA meetings described in § 26.4(c).

(b) *U.S. agency comments.* Comments from U.S. agencies shall be provided through the WGMA.

(c) *Consideration of comments.* The WGMA will consider all comments made by the public and U.S. agencies. The WGMA may review a project up to three times. The first review will consider whether the project has been assigned the appropriate environmental category by the MDB. This review will take place as far in advance as possible of Board consideration of the project. The second review will consider the EIA Summary or the EIA (or information discussed in § 26.5(b)(1)), and comments received from the public on such documentation. The third WGMA review, which will take place shortly before Board consideration of the project, will consider the position of the U.S. Government on the project.

§ 26.5 Upgrades and additional environmental information.

(a) *Environmental category upgrades.* If the WGMA and the Department of the Treasury determine that a project would have a significant impact on the human environment, but that the level of environmental analysis planned by the MDB is insufficient, the Department of the Treasury will instruct the United States Executive Director of the concerned MDB to request that the MDB upgrade the project to an environmental category requiring additional environmental analysis. Members of the public may call the MDB Office to inquire about upgrade requests for specific projects.

(b) *Additional environmental information.* (1) If the WGMA and the Department of the Treasury determine on the basis of the first WGMA review that:

(i) A MDB project would have a significant impact on the human environment, and

(ii) The MDB appears to have made an appropriate decision that such project merits environmental analysis, but less than a full-fledged environmental impact assessment as defined by that MDB's own procedures, the Department of the Treasury will obtain, through the United States Executive Director of the concerned MDB, such environmental information from the MDB (*e.g.*, environmental chapters from project feasibility studies or environmental data sheets) which contains this environmental analysis. The MDB Office will provide this environmental information to the entities described in § 26.2(a).

(2) If such environmental information is insufficient to provide an adequate basis for analyzing the environmental impact of the proposed project and alternatives to the proposed project, the Department of the Treasury will instruct the United States Executive Director of the concerned MDB not to vote in favor of the project.

Dated: May 25, 1992.

Olin L. Wethington,

Assistant Secretary for International Affairs.

[FR Doc. 92–13412 Filed 6–9–92; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 311

[OSD Privacy Program]

Office of the Joint Staff; Privacy Program

AGENCY: Office of the Secretary, DOD.
ACTION: Final rule.

SUMMARY: The Office of the Secretary of Defense, Office of the Joint Staff, is amending the system name of one existing exempt system of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The name change is from JS006.CND, USSOUTHCOM Counternarcotics Database to JS006.CND, Department of Defense Counternarcotics C4I System.

EFFECTIVE DATE: June 10, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Dan Cragg at (703) 695–0970.

SUPPLEMENTARY INFORMATION: Executive Order 12291. The Director, Administration and Management has determined that this proposed rule is not a major rule. Analysis of the rule indicates that it does not have an annual effect on the economy of $100 million or more; does not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and does not have a significant adverse effect on competition, employment, investment, productivity, or innovation.

Regulatory Flexibility Act of 1980. The Director, Administration and Management certifies that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) and does not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act. The Director, Administration and Management certifies that this rule does not impose any reporting or record keeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520).

The Office of the Secretary of Defense, Office of the Joint Staff, is amending 32 CFR part 311 by revising the subsection from which records contained in the system of records can be exempt.

List of Subjects in 32 CFR part 311

Privacy

Accordingly, the Office of the Secretary of Defense is amending 32 CFR part 311 as follows:

PART 311 - PRIVACY PROGRAM

1. The authority citation for 32 CFR part 311 continues to read as follows:

Authority: Pub. L. 93–579, 88 Stat 1896 (5 U.S.C. 552a).

2. Section 311.7 is amended by revising the introductory text of paragraph (2) as follows:

§ 311.7 Procedures for exemptions.

* * * * *

(b) *General exemptions.*

* * * * *

(2) *System Identification and Name–* JS006.CND, Department of Defense Counternarcotics C4I System.

* * * * *

Dated: May 22, 1992.

L. M. Bynum.

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–13474 Filed 6–9–92; 8:45 am]

BILLING CODE 3810–01–F

Office of the Inspector General

32 CFR Part 312

[Office of the Inspector General Policy and Procedures Manual, Chapter 33]

Office of the Inspector General (OIG) Privacy Program

AGENCY: Inspector General, DOD
ACTION: Final rule.

SUMMARY: The Office of the Inspector General, DOD, is publishing as a final rule an exemption that will exempt a system of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

EFFECTIVE DATE: June 10, 1992.

FOR FURTHER INFORMATION CONTACT: Ms. Nadine K. Dulacki at (703) 695–9568.

SUPPLEMENTARY INFORMATION: On April 14, 1992, the OIG published a proposed rule for an exempt system of records identified as CIG–16, DOD Hotline Program Case Files. During the public comment period, no comments were received. Therefore, the exemption rule is to be added to existing OIG exemption rules found at 32 CFR 312.12.

List of Subjects in 32 CFR Part 312

Privacy.

Accordingly, the OIG is amending 32 CFR part 312 as follows:

1. The authority citation for 32 CFR part 312 continues to read as follows:

Authority: Pub. L. 93–579, 88 Stat 1896 (5 U.S.C. 552a).

2. Section 312.12 is amended by adding paragraph (g) as follows:

§ 312.12 Exemptions.

* * * * *

(g) *System Identifier:* CIG–16.

(1) *System name:* DOD Hotline Program Case Files.

(2) *Exemption:* Any portions of this system of records which fall under the provisions of 5 U.S.C. 552a(k)(2) and (k)(5) may be exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4)(G), (H), and (f).

(3) *Authority:* 5 U.S.C. 552a(k)(2) and (k)(5).

(4) *Reasons:* From subsection (c)(3) because disclosures from this system could interfere with the just, thorough and timely resolution of the complaint or inquiry, and possibly enable individuals to conceal their wrongdoing or mislead the course of the investigation by concealing, destroying or fabricating evidence or documents.

(5) From subection (d) because disclosures from this system could interfere with the just, thorough and timely resolution of the complaint or inquiry, and possibly enable individuals to conceal their wrongdoing or mislead the course of the investigation by concealing, destroying or fabricating evidence or documents. Disclosures could also subject sources and witnesses to harassment or intimidation which jeopardize the safety and well-being of themselves and their families.

(6) From subsection (e)(1) because the nature of the investigation functions creates unique problems in prescribing specific paramenters in a particular case as to what information is relevant or necessary. Due to close liaison and working relationships with other Federal, state, local, and foreign country law enforcement agencies, information may be received which may relate to a case under the investigative jurisdiction of another government agency. It is necessary to maintain this information in order to provide leads for appropriate law enforcment purposes and to establish patterns of activity which may relate to the jurisdiction of other cooperating agencies.

(7) From subsection (e)(4)(G) through (H) because this system of records is exempt from the access provisions of subsection (d).

(8) From subsection (f) because the agency's rules are inapplicable to those portions of the system that are exempt and would place the burden on the agency of either confirming or denying the existence of a record pertaining to a requesting individual might in itself provide an answer to that individual relating to an on-going investigation. The conduct of a successful investigation leading to the indictment

of a criminal offender precludes the applicability of established agency rules relating to verification of record, disclosure of the record to that individual, and record amendment procedures for this record system.

Dated: June 4, 1992.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92-13473 Filed 06-09-92; 8:45 am]

BILLING CODE 3810-01-F

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972, (72 COLREGS), to reflect that the Judge Advocate General of the Navy has determined Large Harbor Tugs YTB 799 and YTB 811, are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with their special functions as naval vessels. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: May 26, 1992.

FOR FURTHER INFORMATION CONTACT: Captain R.R. ROSSI, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (703) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Judge Advocate General of the Navy, under authority delegated by the Secretary of the Navy, has certified that Large Harbor Tugs YTB 799 and YTB 811, are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(c), pertaining to the location of the sternlight; Rule 24(c), pertaining to the towing lights displayed by power driven vessels when pushing ahead or towing alongside; Rule 27(b)(i), pertaining to the lights displayed by vessels restricted in their ability to maneuver; Annex I, section 2(a)(i), pertaining to the height above the hull of the masthead light; and Annex I, section 3(b), pertaining to the placement of the sidelights, without interfering with their special function as naval vessels. YTB 799 and YTB 811 are tugs of special construction and functions. They perform towing services for naval vessels.

In the case of each tug, the mast is hinged and is lowered only when the tug is actually engaged in towing alongside or pushing ships having radically flared bows or sponsoned sides and sterns. When the mast is in the lowered position, the masthead lights, and task lights mounted on the mast, cannot be displayed. During such operations only the pilot house top-mounted auxiliary masthead light, sidelights, and sternlight will be exhibited.

The Judge Advocate General of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on these vessels in a manner differently from that prescribed herein will adversely affect the vessels ability to perform their military functions.

List of Subjects in 32 CFR Part 706

Marine Safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

2. Table Three of § 706.2 is amended by adding the following vessels:

TABLE THREE

Vessel	Number	Masthead lights, arc of visibility; Rule 21(a)	Side lights, arc of visibility; Rule 21(b)	Stern light, arc of visibility; Rule 21(c)	Side lights, distance inboard of ship's sides in meters; § 3(b), Annex I	Stern light, distance forward of stern in meters; Rule 21(c)	Forward anchor light, height above hull in meters; § 2(k), Annex I	Anchor lights, relationship of aft light to forward light in meters; § 2(k), Annex I
Natchitoches	YTB 799				3.00	14.05		
Houma	YTB 811				3.20	14.05		

3. Paragraph 14, Table Four of § 706.2 is amended by adding the following vessels:

Vessel No.	Distance in meters of aux. masthead light below minimum required height. Annex 1 sec. 2(a)(1)
YTB 799	4.07
YTB 811	4.07

Dated: May 26, 1992.

Approved:

W.L. Schachte, Jr.,

Rear Admiral, JAGC, U.S. Navy, Acting Judge Advocate General.

[FR Doc. 92-13538 Filed 6-9-92; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OAQPS No. CA-8-1-5324; FRL-4126-9]

Approval and Promulgation of Implementation Plans California State Implementation Plan Revision; Bay Area Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: EPA is approving a revision to the California State Implementation Plan (SIP) that was adopted by the Bay Area Air Quality Management District (Bay Area AQMD) on May 4, 1988. The California Air Resources Board (CARB) submitted this revised rule to EPA on February 7, 1989. This rule controls emissions from organic liquids, primarily gasoline. EPA has evaluated the rule in this notice for conformance with the provisions of the Federal Clean Air Act as amended on November 15, 1990. The Agency has determined that this rule conforms with those requirements irrespective of the fact that the submittal preceded the date of enactment.

EFFECTIVE DATE: This action will become effective on July 10, 1992.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations:

Northern California, Nevada, and Hawaii Rulemaking Section (A-5-4), Air and Toxics Division, Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1219 "K" Street, Sacramento, CA 95814

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109

Environmental Protection Agency, Public Information Reference Unit, 401 "M" Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Esther Hill, Northern California, Nevada, and Hawaii Rulemaking Section (A-5-4), Air and Toxics Division, Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1203, FTS: 484-1203.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the 1977 Clean Air Act (1977 CAA or pre-amended Act) that included the San Francisco-Bay Area (Bay Area). 43 FR 8964; 40 CFR 81.305. Because San Francisco-Bay Area was unable to reach attainment by the statutory attainment date of December 31, 1982, California requested, and EPA approved, an extension of the attainment date to December 31, 1987. 1977 CAA section 172(a)(2). The San Francisco-Bay Area did not attain the ozone standard by the approved attainment date. On May 26, 1988, EPA notified the Governor of California that the Bay Area's portion of the California State Implementation Plan (SIP) was inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, amendments to the 1977 CAA were enacted. Public Law 101-540, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. In amended 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies.

Section 182(a)(2)(A) applies to areas classified as marginal or above and requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172(b) as interpreted in pre-amendment guidance.[1] EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment areas.The Bay Area is classified as moderate; [2] therefore, this area is subject to the RACT fix-up requirements and the May 15, 1991, deadline.

The State of California submitted many revised RACT rules to EPA for incorporation into its SIP on February 7, 1989, including the rule being acted on in this notice. This notice addresses EPA's final action for Bay Area AQMD Regulation 8, Rule 5 (Rule 8-5), Storage of Organic Compounds. This submitted rule was found to be complete on May 5, 1989 pursuant to EPA's completeness criteria set forth in 40 CFR part 51, appendix V [3] and is being granted approval.

Rule 8-5 controls volatile organic compound (VOC) emissions from organic liquids, such as gasoline. VOCs contribute to the production of ground level ozone and smog. Bay Area AQMD's Rule 8-5 was originally adopted as part of Bay Area AQMD's effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and has been revised in response to EPA's SIP-Call and the section 182(a)(2)(A) CAA requirement.

On November 27, 1990, (55 FR 49306-49309), EPA published a notice of proposed rulemaking in the **Federal Register** to approve the above rule into the California State Implementation Plan because it corrected the specified deficiencies identified under the SIP Call. EPA provided a 30-day comment period. No public comments were received. For a complete discussion of EPA's evaluation of the submitted rule, the reader is directed to the **Federal Register** notice referenced above.

EPA Action

In today's notice, EPA takes final action to approve the State's February 7, 1989 submittal of Bay Area AQMD Rule 8-5, Storage of Organic Compounds, for inclusion into the California SIP. Although this submittal preceded the date of enactment of the Clean Air Act Amendments of 1990, EPA is approving the submittal as meeting all the requirements of section 182(a)(2)(A) of the amended Act. The Bay Area nonattainment area is classified as moderate, and is, therefore, subject to the RACT fix-up requirement. The Bay Area AQMD's revised rule, although submitted in response to the SIP call letter, also fulfills all the RACT fix-up requirements.

Because EPA proposed approval of this submittal prior to enactment, EPA

[1] Among other things, the pre-amendment guidance consists of those portions of the proposed Post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice" (The Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988); and the existing control technique guidelines (CTGs).

[2] The Bay Area was redesignated nonattainment and classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 56 FR 56694 (November 6, 1991).

[3] EPA has since adopted completeness criteria pursuant to section 110(k)(1)(A) of the amended Act. See 56 FR 42216 (August 26, 1991). These will replace the completeness criteria currently set forth in 40 CFR part 51, appendix V.

did not propose approval based on the requirements of new section 182(a)(2)(A). However, EPA believes that the good cause exception to notice-and-comment rulemaking applies and that the Agency, therefore, is not required to repropose approval of the submittal as meeting section 182(a)(2)(A). The agency's action on a SIP or SIP elements is rulemaking that is subject to the procedural requirements of the Administrative Procedure Act (APA). Section 553(a)(B) of the APA provides that the Agency need not provide notice and an opportunity for comment if the Agency for good cause determines that notice and comment are "impracticable, unnecessary or contrary to the public interest."

Notice and comment are impracticable and unnecessary in the present circumstance. Section 182(a)(2)(A) does not impose new requirements on the subject nonattainment areas. Rather, section 182(a)(2)(A) codifies the corrections nonattainment areas needed to make subject to the EPA SIP call letters issued in 1987 and 1988. Because the Bay Area AQMD SIP submittal meets the SIP call and, therefore, is consistent with the applicable pre-amendment guidance, EPA believes that the submittal also necessarily meets the requirements of section 182(a)(2)(A) of the amended Act. In EPA's earlier proposed approval of the Bay Area AQMD rule, EPA provided notice and an opportunity for comment on the consistency of the District's rule with EPA's pre-enactment guidance. Since notice and an opportunity for comment have been provided on that set of issues, and section 182(a)(2)(A) does not expand those requirements, it is unnecessary to repeat that process. In addition, it is impracticable for the Agency to take such action because, in light of the statutory time constraints on acting on SIPs, such a process would divert valuable agency resources from action on the large number of SIPs addressing new substantive requirements.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). The Office of Management and Budget provided a two year waiver for Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291. EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 10, 1992. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Ozone, Reporting and recordkeeping requirements.

Dated: April 14, 1992.

John Wise,

Acting Regional Administrator.

Note: This document was received at the Office of the Federal Register on June 3, 1992.

Subpart F of part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1.The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(177)(E) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(177) * * *

(E) Bay Area Air Quality Management District.

(*1*) Rule 8–5 adopted on May 4, 1988.

* * * * *

[FR Doc. 92–13377 Filed 6–9–92; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 60

[FRL 4136–3]

Standards of Performance for New Stationary Sources; Appendix A—Test Methods

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correcting amendment.

SUMMARY: A rule entitled "Standards of Performance for New Stationary Sources; Addition of Methods for Measurement of Polychlorinated Dibenzo-p-Dioxins, Polychlorinated Dibenzofurans, and Hydrogen Chloride Emissions from Stationary Sources" was published in the **Federal Register** on February 13, 1991 (56 FR 5758). This rule promulgated Methods 23 and 26 for use at municipal waste combustors. In the rule, Method 26 contained several minor errors. This action corrects the method.

EFFECTIVE DATE: June 10, 1992.

FOR FURTHER INFORMATION CONTACT: Foston Curtis or Terry Harrison, Emission Measurement Branch (MD–19), Technical Support Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–0163.

List of Subjects in 40 CFR Part 60

Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Municipal waste combustors, and Reporting and recordkeeping requirements.

Dated: May 14, 1992.

William K. Reilly,

Administrator.

Accordingly, 40 CFR part 60 is corrected by making the following correcting amendments:

PART 60—[Amended]

1. The authority citation for 40 CFR part 60 continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7414, 7416, and 7601.

2. In appendix A, Method 26, sections 2.1.1, 2.1.2, 2.1.5, 2.3.3, 4.1.2, 4.4.1, 6.4, and Citations 1 and 3 of 8. Bibliography are revised; the first listing of sections 4 through 4.1.2, and the relisting of Equation 26–1 and Section 3.2.4 that follow are removed; Sections 2.1.6 through 2.1.9 are redesignated as Sections 2.1.7 through 2.1.10, and Sections 4.1.3 and 4.1.4 are redesignated as Sections 4.1.4 and 4.1.5; and new

Sections 2.1.6, 2.1.11, 2.1.12, 4.1.3, and 6.4.1 through 6.4.3 are added to read as follows:

Appendix A—Test Methods

* * * * *

Method 26—Determination of Hydrogen Chloride Emissions From Stationary Sources

* * * * *

2. * * *

2.1 * * *

2.1.1 Probe. Borsilicate glass, approximately 3/8-in. (9-mm) I.D. with a heating system to prevent moisture condensation. A Teflon-glass filter in a mat configuration shall be installed behind the probe to remove particulate matter from the gas stream (see section 2.1.5). A glass wool plug should *not* be used to remove particulate matter since a negative bias in the data could result.

2.1.2 Three-Way Stopcock. A borosilicate glass three-way stopcock with a heating system to prevent moisturecondensation. The heated stopcock should connect to the outlet of the heated filter and the inlet of the first impinger. The heating system shall be capable of preventing condensation up to the inlet of the first impinger. Silicone grease may be used, if necessary, to prevent leakage.

* * * * *

2.1.5 Filter. A 25-mm (or other size) Teflon-glass mat, Pallflex TX40HI75 (Pallflex Inc., 125 Kennedy Drive, Putnam, CT 06260). This filter is in a mat configuration to prevent fine particulate matter from entering the sampling train. Its composition is 75 percent Teflon/25 percent borosilicate glass. Other filters may be used, but they must be in a mat (as opposed to a laminate) configuration and contain at least 75 percent Teflon.

2.1.6 Filter Holder and Support. The filter holder should be made of Teflon or quartz. The filter support shall be made of Teflon. All-Teflon filter holders and supports are available from Savillex Corp., 5325 Hwy 101, Minnetonka, MN 55345.

* * * * *

2.1.11 Temperature Measuring Devices. Temperature measuring device to monitor the temperature of the probe and a thermometer or other temperature measuring device to monitor the temperature of the sampling system from the outlet of the probe to the inlet of the first impinger.

2.1.12 Ice Water Bath. To minimize loss of absorbing solution.

* * * * *

2.3 * * *

2.3.3 Ion Chromatograph. Suppressed or nonsuppressed, with a conductivity detector and electronic integrator operating in the peak area mode. Other detectors, strip chart recorders, and peak height measurements may be used.

* * * * *

4. * * *

4.1 * * *

4.1.2 Adjust the probe temperature and the temperature of the filter and the stopcock, i.e., the heated area in Figure 26–1 to a temperature sufficient to prevent water condensation. This temperature should be at least 20° C above the source temperature, but not greater than 120° C. The temperature should be monitored throughout a sampling run to ensure that the desired temperature is maintained.

4.1.3 Leak-Check Procedure. A leak-check prior to the sampling run is optional; however, a leak-check after the sampling run is mandatory. The leak-check procedure is as follows: Temporarily attach a suitable (e.g., 0–40 cc/min) rotameter to the outlet of the dry gas meter and place a vacuum gauge at or near the probe inlet. Plug the probe inlet, pull a vacuum of at least 250 mm Hg (10 in. Hg), and note the flow rate as indicated by the rotameter. A leakage rate not in excess of 2 percent of the average sampling rate is acceptable. (*NOTE:* Carefully release the probe inlet plug before turning off the pump.) It is suggested (not mandatory) that the pump be leak-checked separately, either prior to or after the sampling run. If done prior to the sampling run, the pump leak-check shall precede the leak-check of the sampling train described immediately above; if done after the sampling run, the pump leak-check shall follow the train leak-check. To leak-check the pump, proceed as follows: Disconnect the drying tube from the probe-impinger assembly. Place a vacuum gauge at the inlet to either the drying tube or pump, pull a vacuum of 250 mm (10 in.) Hg, plug or pinch off the outlet of the flowmeter, and then turn off the pump. The vacuum should remain stable for at least 30 sec. Other leak-check procedures may be used, subject to the approval of the Administrator, U.S. Environmental Protection Agency.

* * * * *

4.4 * * *

4.4.1 The IC conditions will depend upon analytical column type and whether suppressed or nonsuppressed IC is used. An example chromatogram from a nonsuppressed system using a 150-mm Hamilton PRP–X100 anion column, a 2 ml/min flow rate of 4 mM 4-hydroxy benzoate solution adjusted to a pH of 8.6 using 1 N NaOH, a 50-μl sample loop, and a conductivity detector set on 1.0 μS full scale is shown in Figure 26–2.

* * * * *

6. * * *

6.4 Audit Results.

6.4.1 Calculate the concentrations in mg/dscm using the specified sample volume in the audit instructions.

Note: Indication of acceptable results may be obtained immediately by reporting the audit results in mg/dscm and compliance results in total μg HCl/sample to the responsible enforcement agency. Include the results of both audit samples, their identification numbers, and the analyst's name with the results of the compliance determination samples in appropriate reports to the EPA Regional Office or the appropriate enforcement agency. Include this information with subsequent analyses for the same enforcement agency during the 30-day period.

6.4.2 The concentrations of the audit samples obtained by the analyst shall agree within 10 percent of the actual concentrations. If the 10 percent specification is not met, reanalyze the compliance samples and audit samples, and include initial and reanalysis values in the test report.

6.4.3 Failure to meet the 10 percent specification may require retests until the audit problems are resolved. However, if the audit results do no affect the compliance or noncompliance status of the affected facility, the Administrator may waive the reanalysis requirement, further audits, or retests and accept the results of the compliance test. While steps are being taken to resolve audit analysis problems, the Administrator may also choose to use the data to determine the compliance or noncompliance status of the affected facility.

* * * * *

8. * * *

1. Steinsberger, S.C. and J.H. Margeson, "Laboratory and Field Evaluation of a Methodology for Determination of Hydrogen Chloride Emissions form Municipal and Hazardous Waste Incinerators," U.S. Environmental Protection Agency, Office of Research and Develpment, Report No. 600/3–89/064, April 1989. Available from the National Technical Information Service, Springfield, VA 22161 as PB89220586/AS.

* * * * *

3. Cheney, J.L. and C.R. Fortune. Improvements in the Methodology for Measuring Hydrochloric Acid in Combustion Source Emissions. J. Environ. Sci. Health. *A19*(3): 337–350. 1984.

* * * * *

Appendix A—[Amended]

3. In appendix A, sections 1.1, 1.2, 1.3, and 1.4 of Method 26, by revising "Cl^-", "Cl_2", "HCl", and "HOCl" wherever they occur to read "Cl^-", "Cl_2", "HCl", and "HOCl", respectively.

4. In sections 1.3 and 2.2.2 of Method 26, by removing the last two sentences.

5. In section 3.2.3 of Method 26, by revising "100" in the third sentence to read "110", and by revising Eq. 26–1 to read as follows:

$$\mu g\ Cl^-/ml = g\ of\ NaCl \times 10^3 \times 35.45/58.44 \qquad \text{Eq. 26–1}$$

6. In newly designated section 4.1.5 of Method 26, by revising "Figure 26–3" in the first sentence to read "Figure 26–1".

7. By amending section 7.2 of Method 26 as follows:

a. By removing "(35.453)" and "(102.84)" in Equation 26–2 and adding in their respective places "(35.45)" and "(102.8)".

b. By revising "Hcl" in the first definition after Equation 26–2 to read "HCl".

c. By revising "35.453" in the last definition after Equation 26–2 to read "35.45".

8. In section 7.3 of Method 26, by revising Equation 26–3 to read as follows:

$$C = K\, m/V_{m(std)} \qquad \text{Eq. 26–3}$$

[FR Doc. 92–12302 Filed 6–9–92; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[PP 2E4050/1149; FRL-4067-5]

RIN 2070-AB78

Exemption From the Requirement of a Tolerance for 3-Carbamyl-2,4,5-Trichlorobenzoic Acid

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes an exemption from the requirement of a tolerance for the residues of the soil metabolite 3-carbamyl-2,4,5-trichlorobenzoic acid in or on all raw agricultural commodities which occur from the direct appliction of the fungicide clorothalonil to certain crops and/or as inadvertent residues resulting from the soil metabolism of chlorothalonil when applied to certain crops, and subsequent uptake by rotated crops when used according to approved agricultural practices. This exemption from the requirement for a tolerance was requested by ISK Biotech Corp.

EFFECTIVE DATE: This regulation becomes effective June 3, 1992.

ADDRESSES: Written objections, identified by the document control number, [PP 2E4050/R1149], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Cynthia Giles-Parker, Product Manager (PM) 22, Registration Division (H7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 229, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-305-5540.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 15, 1992 (57 FR 13073), EPA issued a proposed rule that gave notice that the ISK Biotech Corp., P.O. Box 8000, Mentor, OH 44061-8000, had submitted pesticide petition (PP) 2E4050 to EPA. The petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)), establish an exemption from the requirement of a tolerance for the residues of 3-carbamyl-2,4,5-trichlorobenzoic acid and 4-hydroxy-2,5,6-trichloroisophthalonitrile in rotated crops.

ISK biotech Corp. amended the petition to request that EPA establish an exemption from the requirement of a tolerance as follows: An exemption from the requirement for a tolerance is proposed for the residues of 3-carbamyl-2,4,5-trichlorobenzoic acid in or on all raw agricultural commodities which occur from the direct application of chlorothalonil to crops in § 180.275(a) and (b) and/or as inadvertent residues resulting from the soil metabolism of chlorothalonil when applied to crops in § 180.275(a) and (b), and subsequent uptake by crops when used according to approved agricultural practices. The purpose of this exemption from the requirement of a tolerance is to allow the rotation to crops for which there are no chlorothalonil tolerances in fields where preceding crops were treated with chlorothalonil. Residue studies show that the soil metabolite, 3-carbamyl-2,4,5-trichlorobenzoic acid, is the only residue of chlorothalonil which may be detected in the rotated crops.

In response to the proposed rule, nine comments have been received from peanut growers, the Georgia Peanut Producers Association, the North Carolina Peanut Growers Association, Inc., and the North Carolina Department of Agriculture. All stated that BRAVO®, chlorothalonil, is essential to efficient peanut production and that the rotational crop restriction should be removed from BRAVO® labeling as soon as possible.

There were no requests for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petition and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance exemption will protect the public health. Therefore, the tolerance exemption is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above (40 CFR 178.20). The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompnaied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 3, 1992.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In subpart D, by adding new § 180.1110, to read as follows:

§ 180.1110 3-Carbamyl-2,4,5-trichlorobenzoic acid; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for the residues of 3-carbamyl-2,4,5-trichlorobenzoic acid in or on all raw agricultural commodities which occur from the direct application of chlorothalonil to crops in § 180.275(a) and (b) and/or as an inadvertent residue resulting from the soil metabolism of chlorothalonil when applied to crops in § 180.275(a) and (b), and subsequent uptake by rotated crops when used according to approved agricultural practices.

[FR Doc. 92-13620 Filed 6-9-92; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 180

[PP 1F3951/R1153; FRL-4069-3]

RIN 2070 AB-78

Pesticide Tolerance for Quizalofop-P Ethyl Ester

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the residues of the herbicide quizalofop-p ethyl ester [ethyl (*R*)-(2-[4-[(6-chloroquinoxalin-2-yl)oxy]phenoxy])-propanoate], and its acid metabolite quizalofop-p [*R*-(2-[4-[(6-chloroquinoxalin-2-yl)oxy]phenoxy]) propanoic acid], and the *S* enantiomers of both the ester and the acid, all expressed as quizalofop-*p*-ethyl ester in or on the raw agricultural commodity cottonseed at 0.05 part per million (ppm). The regulation was requested by the E.I. du Pont de Nemours & Co., Inc., and establishes the maximum permissible level for residues of the herbicide in or on cottonseed.

EFFECTIVE DATE: Effective on June 10, 1992.

ADDRESSES: Written objections may be submitted to the: Hearing Clerk (A-110), Rm. M3708, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Robert J. Taylor, Product Manager (PM) 25, Registration Division (H7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 245, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-305-6800.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of April 3, 1991 (56 FR 13642), which announced that the E.I. du Pont de Nemours & Co., Inc., Walkers Mill Bldg., Barley Mill Plaza, Wilmington, DE 19880, had submitted pesticide petition (PP) 1F3951 to EPA proposing that under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), 40 CFR 180.441 be amended by establishing a regulation to permit the combined residues of the herbicide quizalofop ethyl (ethyl-(2-[4-(6-chloroquinoxalin-2-yl-oxy) phenoxy] propanoate)), its metabolite 2-[4-(6-chloroquinoxalin-2-yl-oxy) phenoxy] propanoic acid, and conjugates, all expressed as quizalofop ethyl, in or on the raw agricultural commodity cottonseed at 0.05 ppm.

There were no comments or requests for referral to an advisory committee received in response to the notice of filing.

The petitioner subsequently amended the petition and proposed to establish a tolerance for residues of the herbicide quizalofop-p ethyl ester [ethyl (*R*)-(2-[4-[(6-chloroquinoxalin-2-yl)oxy)phenoxy]) propanoate], and its acid metabolite quizalofop-p [*R*-(2-[4-[(6-chloroquinoxalin-2-yl)oxy)phenoxy]) propanoic acid], and the *S* enantiomers of both the ester and acid, all expressed as quizalofop-p ethyl ester in or on the raw agricultural commodity cottonseed at 0.05 ppm. Because these revisions were a redefinition of the proposal to more accurately describe the residues and because they did not significantly alter the proposal, a period of public comment is not necessary.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data listed below were considered in support of this tolerance.

1. Several acute toxicology studies placing technical-grade quizalofop ethyl in toxicity Category III.

2. An 18-month oncogenicity study with CD-1 mice fed dosages of 0, 0.2, 1.5, 12, and 48 mg/kg/day with no carcinogenic effects observed under the conditions of the study at levels up to and including 12 mg/kg/day and a marginal increase in the incidence of hepatocellular tumors at 48 mg/kg/day HDT (highest dose tested) which exceeded the maximum tolerated dose (MTD).

3. A 2-year chronic toxicity/oncogenicity study in rats fed dosages of 0, 1.25, 5, and 20 mg/kg/day with no carcinogenic effects observed under the conditions of the study at levels up to and including 20 mg/kg/day (HDT) and a systemic NOEL of 1.25 mg/kg/day based on altered red cell parameters and slight/minimal centrilobular enlargement of the liver at 5 mg/kg/day.

4. A 1-year feeding study in dogs fed dosages of 0, 0.625, 2.5, and 10 mg/kg/day with a NOEL of 10 mg/kg/day (HDT).

5. A developmental toxicity study in rats fed dosage levels of 0, 30, 100, and 300 mg/kg/day (HDT), with a maternal toxicity NOEL of 300 mg/kg/day and a developmental toxicity NOEL of greater than 300 mg/kg/day (HDT).

6. A developmental toxicity study in rabbits fed dosage levels of 0, 7, 20, and 60 mg/kg/day with no developmental effects noted at 60 mg/kg/day (HDT), and a maternal toxicity NOEL of 20 mg/kg/day based on decreases in food consumption and body weight gain at 60 mg/kg/day (HDT).

7. A two-generation reproduction study in rats fed dosages of 1, 1.25, 5, and 20 mg/kg/day with a reproductive (developmental) NOEL of 1.25 mg/kg/day based on an increase in liver weight and increase in the incidence of eosinophillic changes in the liver at 5.0 mg/kg/day and a parental NOEL of 5.0 mg/kg/day based on decreased body weight and premating weight gain in males at 20 mg/kg/day (HDT).

8. Mutagenicity data included gene mutation assays with *E. coli* and *S. typhimurium* (negative); DNA damage assays with *B. subtillis* (negative) and a chromosomal aberration test in Chinese hamster cells (negative).

The Toxicology Peer Review Committee of HED evaluated the data on the incidence of liver tumors found in the mouse oncogenicity study with quizalofop ethyl, and the same data were also considered by the Science Advisory Panel (SAP). It was concluded that quizalofop ethyl would be classified as a Category D carcinogen (not classifiable as to human carcinogenicity), "because limitations in the data from an adequately performed mouse study precluded an accurate interpretation of oncogenic risk."

Based on the NOEL of 0.9 mg/kg/bwt/day in the 2-year rat feeding study, and using a hundredfold uncertainty factor, the RfD acceptable daily intake (ADI) for quazalofop ethyl is calculated to be 0.009 mg/kg/ bwt/day. The theoretical maximum residue contribution (TMRC) is 0.000217 mg/kg bwt/day for existing tolerances for the overall U.S. population. The current action will increase the TMRC by 0.000002 mg/kg bwt/day (0.01 percent of the ADI). These tolerances and previously established tolerances utilize a total of 2.42 percent of the ADI for the overall U.S. population. For U.S. subgroup populations, nonnursing infants and children aged 1 to 6 years, the current action and previously established tolerances utilize, respectively, a total of 10.2 percent and 5.7 percent of the ADI, assuming that residue levels are at the established tolerances and that 100 percent of the crop is treated.

The nature of the residue is adequately understood, and an adequate analytical methodology (high-pressure liquid chromatography using either ultraviolet or fluorescence detection) is available for enforcement purposes in Vol. II of of the Food and Drug Administration Pesticide Analytical Method (PAM II, Method I). There are currently no actions pending against the registration of this chemical. No secondary residues are expected to occur in meat, milk, poultry, or eggs from this use.

Based on the information cited above, the Agency has determined that the establishment of the tolerance by

amending 40 CFR part 180 will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above (40 CFR 178.20). The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: May 21, 1992.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.441, by adding new paragraph (c), to read as follows:

§ 180.441 Quizalofop ethyl; tolerances for residues.

* * * * *

(c) Tolerances are established for the combined residues of the herbicide quizalofop-p ethyl ester [ethyl (*R*)-(2-[4-[(6-chloroquinoxalin-2-yl)oxy)phenoxy])-propanoate], and its acid metabolite quizalofop-p [*R*-(2-(4-[(6-chloroquinoxalin-2-yl]oxy)phenoxy]] propanoic acid), and the *S* enantiomers of both the ester and the acid, all expressed as quizalofop-p-ethyl ester, in or on the raw agricultural commodity cottonseed at 0.05 part per million.

[FR Doc. 92-13619 Filed 6-9-92; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 92-11; RM-7881]

Radio Broadcasting Services; Inglis, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 282A to Inglis, Florida, as the community's first local FM service at the request of Lucille Ann Lacy. *See* 57 04180, February 4, 1992. Channel 282A can be allotted to Inglis in compliance with the Commission's minimum distance separation requirements with a site restriction of 1.8 kilometers (1.1 miles) northwest, in order to avoid a short-spacing to Station WZTU(FM), Channel 281C, Cocoa Beach, Forida. The coordinates are North Latitude 29-02-45 and West Longitude 82-40-53. With this action, this proceeding is terminated.

DATES: Effective July 20, 1992; the window period for filing applications will open on July 21, 1992, and closed on August 20, 1992.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 92-11, adopted May 19, 1992, and released June 4, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Florida, is amended by adding Inglis, Channel 282A.

Federal Communications Commission.

Michael C. Ruger,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-13533 Filed 6-9-92; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 92-15; RM-7886]

Radio Broadcasting Services; Poipu, Hawaii

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 240A to Poipu, Hawaii, as the community's first local FM service at the request of Lu Ann Uchida Lane. See 57 FR 05412, February 14, 1992. Channel 240A can be allotted to Poipu in compliance with the Commission's minimum distance separation requirements without a site restriction. The coordinates are North Latitude 21-52-35 and West Longitude 159-27-14. With this action, this proceeding is terminated.

DATES: Effective July 20, 1992; the window period for filing applications will open on July 21, 1992, and close on August 20, 1992.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 92-15, adopted May 19, 1992, and released June 4, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Hawaii, is amended by adding Poipu, Channel 240A.

Federal Communications Commission.

Michael C. Ruger,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-13534 Filed 6-9-92; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF JUSTICE

48 CFR Parts 2801, 2803, 2804, 2805, 2806, 2807, 2810, 2813, 2817, 2833, and 2834

[Justice Acquisition Circular 92-1]

Miscellaneous Amendments to Justice Acquisition Regulations (JAR)

AGENCY: Office of the Procurement Executive, Justice Management Division, Justice.

ACTION: Final rule.

SUMMARY: Justice Acquisition Circular 92-1 amends the JAR to reflect a number of miscellaneous changes implementing higher level issuances and other changes with respect to Justice internal or administrative matters. The major changes include: amending section 2801.603 to clarify that the existing contracting officers standards are not applicable to realty leasing and sales personnel and to add additional subject areas to the training requirements for contracting officers with authority to enter into leasehold interest in real property; adding a new section 2803.104, Procurement integrity, to incorporate agency procedures which implement the Procurement Integrity requirements of the Office of Federal Procurement Policy Act of 1988, as amended; adding a new subpart 2803.8, Limitation on the Payment of Funds to Influence Federal Transactions, to incorporate agency procedures for reporting lobbying disclosure forms; amending section 2807.103, Agency-head responsibilities to require the consideration of the use of the metric system of measurements in the acquisition planning phase, in accordance with section 5164 of the Omnibus Trade and Competitiveness Act of 1988; adding section 2810.001, Definitions, to incorporate definitions used in DOJ's Metric Program and section 2810.002, Policy, to establish the policy for using metric units of measurements in solicitations; and adding subpart 2813.70, Certified Invoice Procedure, to incorporate existing certified invoice procedures.

EFFECTIVE DATE: June 10, 1992.

FOR FURTHER INFORMATION CONTACT: W.L. Vann, Procurement Executive, Justice Management Division, (202) 514-6868.

SUPPLEMENTARY INFORMATION: The determination is hereby made that this amendment must be issued as a final rule. This amendment was not published for public comment because it does not have an effect beyond the internal operating procedures of the agency. The Director, Office of Management and Budget, by memorandum dated December 14, 1984, exempted agency procurement regulations from review under Executive Order 12291, except for selected areas. The exception applies to this rule. The Department of Justice certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601-612).

List of Subjects in 48 CFR Part 2801, 2803, 2804, 2805, 2806, 2807, 2810, 2813, 2817, 2833, and 2834.

Government Procurement.

Harry H. Flickinger,

Assistant Attorney General for Administration.

1. The authority citation for 48 CFR parts 2801, 2803, 2804, 2805, 2806, 2807, 2810, 2813, 2817, 2833, and 2834 continues to read as follows:

Authority: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 28 CFR 0.76(j).

PART 2801—DEPARTMENT OF JUSTICE ACQUISITION REGULATION SYSTEM

2. Part 2801 is amended as set forth below:

a. Subpart 2801.2 is added as follows:

Subpart 2801.2—Administration

Sec.

Subpart 2801.2—Administration

2801.270 Amendment of regulation.

This Regulation will be amended from time to time to set forth improved procedures which reduce contract preparation time, simplify and standardize contract forms, improve the contracting process and reflect changes in statutes, Executive Orders, the FAR and other policies. Acquisition personnel are encouraged to submit suggestions, based on operating experience, for improving and simplifying the procedures set forth in this Regulation. Such suggestions should be submitted through the Bureau Chief of Procurement to the Office of the Procurement Executive.

2801.270-1 Revisions.

This Regulation will be amended by issuance of Justice Acquisition Circulars (JACs) containing loose-leaf replacement pages which revise parts, subparts, paragraphs or subparagraphs. A vertical bar (edit bar) at the beginning or end of a line indicates that a change has been made within that line.

2801.270-2 Policy Directives.

(a) Policy Directives will be used to supplement this regulation when it is necessary or advisable to promulgate specific information or procedures as rapidly as possible.

(b) Unless otherwise indicated, each item in a Policy Directive will remain in effect until the effective date of that subsequent Justice Acquisition Circular revision, which incorporates the item into the JAR, or until specifically cancelled.

2801.270-3 Effective date.

(a) Statements in Justice Acquisition Circulars and Policy Directives to the effect that the material published therein is "effective upon receipt," or upon a specified date, or that changes set forth in the Circulars or Directives are "to be used upon receipt," mean that any new or revised clauses or forms included in the Circulars or Directives shall be included in invitations for bids and requests for proposals issued thereafter.

(b) Procurements initiated after receipt of new or revised clauses should include such clauses.

(c) Unless otherwise stated, invitations for bids which have been issued and bilateral agreements, upon which negotiations have been completed prior to the receipt of new or revised contract clauses, need not be amended to include the new or revised clauses, if such amendment would unduly delay the procurement action.

2801.270-4 Numbering.

Justice Acquisition Circulars and Policy Directives are consecutively numbered, beginning with number 1, prefixed by the last two digits of the calendar year of issuance.

2801.603 [Amended]

b. In section 2801.603, paragraph (f)(1) introductory text is revised and (f)(3)(v) is added as set forth below, paragraph (h) is removed, and existing paragraph (i) is redesignated as paragraph (h).

* * * * *

(f) *Training subject areas.* (1) It is understood that the following are meant

to be general subject areas, not course titles. The Bureau in determining the acceptability of a particular course will make a determination based on what is generally understood in the procurement field to be procurement or procurement related training. Training may be accomplished in-house or obtained from outside sources. (Does not apply to realty leasing and sales personnel.)

* * * * *

(f)(3) * * *

(v) Techniques of Negotiating Federal Real Property Leases (recommended 40 hrs).

The Cost and Price Analysis and Negotiation Techniques courses listed in (f)(1) may be substituted for the required Pricing of Lease Proposal and Techniques of Negotiating Federal Real Property Leases courses listed above.

PART 2803—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

3. Part 2803 is amended as set forth below:

a. Subpart 2803.1 is revised to read as follows:

Subpart 2803.1—Safeguards

Sec.

Subpart 2803.1—Safeguards

2803.101–3 Agency regulation.

The DOJ regulations governing Standards of Conduct are contained in 28 CFR part 45. Agency authorized exceptions to FAR 3.101–2 are contained in 28 CFR 45.735–14.

2803.104 Procurement integrity.

2803.104–5 Disclosure, protection, and marking of proprietary and source selection information.

(a) The head of the agency, or his or her designee, or the contracting officer are permitted by FAR 3.104–5(d) to authorize persons, or classes of persons, access to proprietary or source selection information when access is necessary to the conduct of the procurement. Authorizations to individuals should be made in writing only after confirmation by the contracting officer that the individual has completed a certification in accordance with FAR 3.104–12(a)(2). Authorizations to classes of persons must be made at a level not lower than the chief of the contracting office.

(b) The head of the office receiving the proprietary or source selection information, or his or her designee, shall maintain a list of persons, or classes of persons, who have authorized access to the information. The list shall be forwarded to the contracting office responsible for the conduct of the procurement to be included in the contract file.

2803.104–9 Certification requirements.

(a) *Record-keeping requirements.* (1) For those contracts over $100,000, the contracting officer's and the contractor's certifications shall be filed in the contract file. Also, the list of personnel having access to source selection information submitted by the program office head will be filed in the contract folder in accordance with FAR 3.104–5.

(2) Bureaus are required to maintain a central file of all certifications required by FAR 3.104–12.

(b) *Exception to certification requirements.* In an exceptional case, the Attorney General may determine in writing that the certification requirement should be waived. The contracting officer, with approval of the Bureau Director, shall submit a request for waiver to the Office of the Procurement Executive. The request shall clearly identify the procurement, or class of procurements, and provide a detailed justification for the requested waiver. The Procurement Executive will evaluate the request, provide recommendations, and forward the request to the Attorney General for his determination. The resulting decision of the Attorney General shall state the reasons for approval or disapproval of the waiver. The Attorney General shall promptly notify Congress, in writing, of each waiver approved. The authority to approve a waiver may not be delegated.

2803.104–11 Processing violations or possible violations.

(a) If any certification received by, or signed by, the contracting officer contains any information of a violation, or possible violation of the procurement integrity section of the OFPP Act, the contracting officer shall determine whether the reported violation, or possible violation has any impact on the pending award, or selection of the source thereof. If the contracting officer concludes that there is no impact, the contracting officer shall report the violation, accompanied by the appropriate documentation supporting that conclusion, to the head of the procurement office. With the concurrence of the head of the procurement office, the contracting officer may immediately proceed with award, and the head of the procurement office shall notify the head of the bureau, or his or her designee, of a violation, or possible violation.

(b) The head of the bureau, or his or her designee, receiving a certification describing an actual, or possible violation of the procurement integrity provisions of the OFPP Act, shall review all information available and he or she may make a determination that the prohibitions of section 27 of the Act have not been violated. This signed determination will be sent to the contracting officer for inclusion in the contract file.

(c) If the head of the bureau, or his or her designee, determines that the prohibitions of section 27 of the Act have been violated, he/she shall submit the file to the Procurement Executive with an explanation of his/her intentions to remedy the situation. If the Procurement Executive concurs in the intended actions, a written concurrence will be sent to the head of the bureau or designee. The contracting officer will then be advised, or directed by the head of the bureau, or designee, as to the action to be taken. The types of actions that would normally be taken when a violation has occurred that affected the outcome of a procurement are listed in FAR 3.104–11(d).

(d) If the head of the bureau, or his or her designee, receiving the certification of a violation, or possible violation, determines that award is justified by urgent and compelling circumstances, or is otherwise in the interest of the Government, then he or she may authorize the contracting officer to award the contract after notification to the Procurement Executive.

2803.104–12 Ethics program training requirements.

It is the responsibility of the bureaus to provide training for "procurement officials" concerning the requirements of FAR 3.104. The bureau procurement training efforts should be coordinated with the Department's Ethics Official, who is responsible for developing agency ethics training plans, to include briefings on ethics and standards of conduct for all employees who are contracting officers and procurement officials. The Ethics Official should be contacted directly to schedule training.

b. Subpart 2803.8 is added to read as follows:

Subpart 2803.8—Limitation on the Payment of Funds to Influence Federal Transactions

2803.804 Policy.

(a) Copies of all contractor disclosures furnished pursuant to the clause at FAR 52.203–12, Limitation on Payments to Influence Certain Federal Transactions, and a summary report, containing a compilation of the information contained in the disclosures received, shall be forwarded, by the Bureau Procurement Chief, to the Procurement Executive. Negative reports are required to be submitted if no disclosures have been received from the contractors.

(b) The disclosures, or negative reports, shall be submitted in accordance with the following schedule:

(1) For the six month period from October 1 to March 31, reports are due to the Procurement Executive by April 30.

(2) For the six month period from April 1 to September 30, reports are due to the Procurement Executive by October 31.

(c) The Procurement Executive shall consolidate the disclosures and reports and submit the semi-annual report and disclosures to the Assistant Attorney General for Administration, for subsequent submission to Congress, on behalf of the Attorney General, by May 31 and November 30 of each year.

PART 2804—ADMINISTRATIVE MATTERS

4. Part 2804 is amended as set forth below:

a. In section 2804.601, paragraph (b) is revised to read as follows:

2804.601 Federal Procurement Data System.

* * * * *

(b) Bureau Procurement Chiefs shall provide to the Procurement Executive, the name, office, mailing address, and telephone number of the individual who will provide day-to-day operational contact within the bureau for the implementation of the FPDS. Changes and updates shall be forwarded to the Office of the Procurement Executive (OPE) within 30 days after they occur. It is the responsibility of the bureau contacts to ensure that all actions are reported and submitted to the OPE in a timely manner and that all statistics and reports are accurate, current, and complete. Bureau procurement chiefs shall obtain and review a hard copy computer printout of the ACF entries on a periodic basis, for validation purposes.

b. Section 2804.803–70 is amended by adding paragraph (c) as follows:

2804.803–70 Contents of contract files.

* * * * *

(c) The preaward contract file shall contain, for all contract requirements which do not appear on an Advance Procurement Plan (APP), a memorandum which documents those circumstances. The documentation shall include, as a minimum, the following:

(1) The reasons why the requirement did not get placed on an APP or subsequent revision; and

(2) A description as to how and when the requirement materialized.

c. Subpart 2804.70 is added to read as follows:

Subpart 2804.70—Procurement Requisitions

2804.7000 General.

(a) Procurement requests will be prepared and submitted to the contracting office in accordance with bureau instructions.

(b) Except in unusual circumstances, the contracting office shall not issue solicitations until an approved procurement request, containing a certification that funds are available, has been received. However, the contracting office may take all necessary actions, up to the point of contract obligation, before receipt of the approved procurement request certifying that funds are available when—

(1) Such action is necessary to meet critical program schedules;

(2) It has been established that program authority has been issued and funds to cover the procurement will be available prior to the date set for contract award or contract modification;

(3) The item has been listed on the component Advance Procurement Plan; and

(4) The Bureau Procurement Chief authorizes such action in writing before solicitation issuance.

(c) All procurement requisitions must be supported by a realistic cost estimate of the requirement. Whether the cost estimate is based on historical data, or other appropriate techniques, the estimates must be prepared in sufficient detail to enable the contracting officer to determine the accuracy and realism of the estimate. If the contracting officer has reason to doubt the validity of the estimate, he or she has a responsibility to review the estimate with the program office and reconcile any differences.

PART 2805—PUBLICIZING CONTRACT ACTIONS

5. Part 2805 is amended as set forth below:

a. Subpart 2805.2 is added to read as follows.

Subpart 2805.2—Synopses of Proposed Contract Actions

2805.201–70 Departmental notification.

(a) A copy of each synopsis of a proposed contract action sent to the Department of Commerce, shall be furnished to the Director, Office of Small and Disadvantaged Business Utilization (OSDBU), Justice Management Division.

(b) Contracting officers shall document, in the contract file, that a copy of the notice has been forwarded to the OSDBU. A "cc" to the OSDBU on the file copy of the CBD notice shall be considered adequate documentation.

b. Subpart 2805.3 is added to read as follows:

Subpart 2805.3—Synopses of Contract Awards

2805.302–70 Departmental notification.

(a) The contracting officer shall forward a copy of the synopsis of contract award, as prepared under FAR 5.302, to the Director, Office of Small and Disadvantaged Business Utilization (OSDBU), Justice Management Division.

(b) Contracting officers shall document in the contract file that a copy of the notice has been forwarded to the OSDBU. A "cc" to the OSDBU on the file copy of the CBD notice shall be considered adequate documentation.

PART 2806—COMPETITION REQUIREMENTS

6. Part 2806 is amended as set forth below:

a. Subpart 2806.3 is amended by adding sections 2806.303–2 and 2806.304.

2806.303–2 Content.

In addition to the information required by FAR 6.303–2, justifications over $10,000,000 shall contain the following documents:

(a) A written Acquisition Plan as required by FAR 7.102 and DOJ Order 2300.5A. If a plan was not prepared, explain why planning was not feasible or accomplished.

(b) A copy of the CBD announcement or proposed announcement in accordance with the requirements of FAR 5.203.

(c) As part of the description of the supplies or services required in FAR 6.303–2, the justification should include the statement of need as submitted by the requiring activity and any subsequent changes or revisions to the specifications.

(d) Any additional documentation that may be unique to the proposed procurement and is relevant to the justification.

2806.304 Approval of the justification.

(a) All justifications for contract actions over $100,000 shall be submitted to the bureau Procurement Chief for concurrence before being forwarded to the bureau Competition Advocate for approval. Justifications over $10,000,000 shall be further submitted for the concurrence of the bureau competition advocate and the head of the contracting activity, before being forwarded to the Procurement Executive for approval.

(b) The original and one copy of the justification shall be forwarded to the Office of the Procurement Executive. After approval by the Procurement Executive, the signed original will be returned to the contracting activity and one copy will be retained in the Office of the Procurement Executive.

PART 2807—ACQUISITION PLANNING

7. Section 2807.103 is revised to read as follows:

2807.103 Agency-head responsibilities.

(a) The Department's Advance Procurement Planning System provides that the heads of components shall appoint a Program Planning Coordinator to coordinate acquisition planning. The coordinator shall work with the component procurement representative and financial officer in developing an approved procurement plan.

(b) The heads of the contracting activities shall ensure that, during the acquisition planning phase, requirements personnel consider the use of the metric system of measurement consistent with 15 U.S.C. 2205 et seq. Use of the metric system must be coordinated with the contracting office and be consistent with security, operational, economic, technical, training, and safety requirements.

PART 2810—SPECIFICATIONS, STANDARDS AND OTHER PURCHASE DESCRIPTIONS

8. Part 2810 is amended to add sections 2810.001 and 2810.002 to read as follows:

2810.001 Definitions.

Dual systems means the use of both inch-pound and metric systems. For example, an item is designed, produced, and described in inch-pound values with soft metric values also shown for information or comparison purposes.

Hybrid systems means the use of both inch-pound and hard metric values in specifications, standards, supplies, and services; e.g., an engine with internal parts in metric dimensions and external fittings or attachments in inch-pound dimensions.

Metric system means the International System of Units established by the General Conference of Weights and Measures in 1960.

Soft metric means the result of mathematical conversion of inch-pound measurements to metric equivalents in specifications, standards, supplies, and services. The physical dimensions are not changed.

2810.002 Metric Policy.

Consistent with the policy expressed in FAR 10.002(c), solicitations must include specifications and purchase descriptions stated in metric units of measurement whenever metric is the accepted industry system. Whenever possible, commercially developed metric specifications and internationally, or domestically developed voluntary standards, using metric measurements, must be adopted. While an industry is in transition to metric specifications, solicitations must include specifications and purchase descriptions stated in soft metric, hybrid, or dual systems except when impractical or inefficient.

PART 2813—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

9. Part 2813 is amended by adding subpart 2813.70 to read as follows:

Subpart 2813.70—Certified Invoice Procedure

Sec
2813.7001 Policy.
2813.7002 Procedure.

Subpart 2813.70—Certified Invoice Procedure

2813.7001 Policy.

Under limited circumstances as described in this subpart, supplies or services directly related to mission accomplishment, may be acquired on the open market from local suppliers at the site of the work or use point, using vendor's invoices under the certified invoice procedure, instead of issuing purchase orders. Certified invoice procedures may not be used to place orders under established contracts, unless, specific authorization for their use is included in the contract document.

2813.7002 Procedure.

(a) Purchases utilizing the certified invoice procedure shall be effected only in accordance with FAR part 13 and JAR 2813, subject to the following:

(1) The amount of any one purchase does not exceed 10 percent of the small purchase limitation;

(2) A purchase order is not required by either the supplier or the Government;

(3) Appropriate invoices can be obtained from the supplier; and

(4) The items to be purchased shall be domestic source end products, except as provided in FAR subpart 25.1.

(b) Use of the certified invoice procedures does not eliminate the requirements in FAR part 13 or JAR part 2813 to:

(1) Reserve small purchases for small business in accordance with the Small Business Investment Act of 1958, as amended (15 U.S.C. 661, et seq.), or document the file as to why a small business was not selected;

(2) Certify that the quality and quantity of item/services furnished are in accordance with the verbal agreement made with the vendor; and

(3) Obtain competitive quotes as is reasonable for the item being purchased.

(c) The Chief of the Contracting Office, as defined in JAR 2802. 102(f), shall delegate the authority to use the certified invoice procedure. Each delegation must specify any limitation placed on the individual's use of these procedures, such as limits on the amount of each purchase, or limits on the commodities, or services which can be procured.

(d) Each individual using this purchasing technique shall require the supplier to immediately submit properly prepared invoices which itemize property or services furnished. Upon receiving the invoice, the individual making the purchase shall annotate the invoice with the date of receipt, verify the arithmetic accuracy of the invoiced amount and verify on the invoice that the supplies and/or services have been received and accepted. If the invoice is correct, the individual making the purchase shall sign the invoice indicating acceptance and immediately forward it to his/her Executive Office. The invoice shall be approved by his/her appropriate administrative office and be forwarded to the Finance Office for payment within 5 workdays after receipt of the invoice, or acceptance of supplies or services, whichever is later. Before forwarding the invoice to Finance, the administrative office shall place the following statement on the invoice, along with the accounting and appropriation data:

I certify that these goods and/or services were received on _____ (date) and accepted on _____ (date). Oral purchase was authorized and no confirming order has been issued.

_____

Signature

Date

Printed or Typed Name and Title

PART 2817—SPECIAL CONTRACTING METHODS

10. Part 2817 is amended by adding subpart 2817.2 to read as follows:

Subpart 2817.2—Options

§ 2817.200 Scope of Subpart.

FAR subpart 17.2 prescribes policies and procedures for the use of option solicitation provisions and contract clauses. For standardization purposes, the option solicitation provisions and contract clauses will be used in all applicable Department of Justice procurement documents, including those for services involving the construction, alteration, or repair of buildings, bridges, roads, or other kinds of real property; architect-engineer services; research and development services; and for automatic data processing (ADP) equipment systems and telecommunications equipment and services, unless the Federal Information Resources Management Regulation (FIRMR) is applicable.

PART 2833—PROTESTS, DISPUTES AND APPEALS

11. Part 2833 is amended by adding subpart 2833.1 to read as follows:

Subpart 2833.1—Protests

§ 2833.105-70 Protests to GSBCA.

(a) Upon notification of an ADP protest to the GSBCA, the contracting officer shall forward, through the Bureau Procurement Chief, a notification to the Procurement Executive. This notification should be in the form of a memorandum and include the following information:

(1) Protestor.
(2) Nature of protest.
(3) Date protest received in GSBCA.
(4) Procurement item description.
(5) Estimated dollar amount.
(6) Status of award.
(7) Brief summary of bureau position regarding protestor's allegations.

(b) The protest notification to the Procurement Executive should be delivered within two working days after bureau notification. Copies to all final decisions should be delivered to the Procurement Executive within two working days after bureau notification.

PART 2834—MAJOR SYSTEM ACQUISITION

§ 2834.002-70 [Amended]

12. In section 2834.002-70, paragraph (c) is removed, and existing paragraphs (d), (e), and (f) are redesignated paragraphs, (c), (d) and (e), respectively.

[FR Doc. 92-13585 Filed 6-9-92; 8:45 am]
BILLING CODE 4410-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 911176-2018]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for shortraker/rougheye rockfish (SRRE) in the Eastern Regulatory area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the total allowable catch (TAC) for SRRE in this area.

DATES: Effective 12 noon, Alaska local time (A.l.t.), June 6, 1992, through 12 midnight, A.l.t., December 31, 1992.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, Resource Management Specialist, Fisheries Management Division, NMFS, 907-586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the exclusive economic zone within the GOA is managed by the Secretary of Commerce according to the Fishery Management Plan for Groundfish of the GOA (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

The SRRE TAC in the Eastern Regulatory area of the GOA (Eastern Gulf), which is defined at § 672.2, is established by the final notice of specifications (57 FR 2844, January 24, 1992) as 570 metric tons.

Under § 672.20(c)(2), the Director of the Alaska Region, NMFS has determined that the SRRE TAC in the Eastern Gulf will soon be reached. Consequently, NMFS is prohibiting directed fishing for SRRE in the Eastern Gulf, effective from 12 noon, A.l.t., June 6, 1992, through 12 midnight, A.l.t., December 31, 1992.

Directed fishing standards for applicable gear types may be found in the regulations at § 672.20(g).

Classification

This action is taken under 50 CFR 672.20 and is in compliance with E.O. 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 5, 1992.

Alfred J. Bilik,

Acting Director of Office Fisheries, Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-13618 Filed 6-5-92; 8:45 am]
BILLING CODE 3510-22-M

50 CFR Part 675

[Docket No. 911172-2021]

Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for yellowfin sole by vessels using trawl gear in Zone 1 of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary because the annual bycatch allowance of *C. bairdi* Tanner crab for the yellowfin sole trawl fishery in Zone 1 of the BSAI has been caught.

DATES: Effective 12 noon, Alaska local time (A.l.t.), June 6, 1992, through 12 midnight, A.l.t., December 31, 1992.

FOR FURTHER INFORMATION CONTACT: David R. Cormany, Resource Management Specialist, NMFS, 907-586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by the Secretary of Commerce according to the Fishery Management Plan for the Groundfish Fishery of the BSAI Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

The Zone 1 annual bycatch allowance of *C. bairdi* Tanner crab to the yellowfin sole trawl fishery, which is defined at § 675.21(g)(4)(ii)(A), was established by emergency rule (57 FR 11433, April 3, 1992) as 100,000 animals.

The Regional Director, Alaska Region, NMFS, has determined, in accordance with § 675.21(h)(1)(i), that U.S. fishing vessels have caught the 1992 Zone 1

bycatch allowance of *C. bairdi* Tanner crab specified for the yellowfin sole trawl fishery. Therefore, NMFS is prohibiting directed fishing for yellowfin sole by vessels using trawl gear in Zone 1 of the BSAI from 12 noon, A.l.t., June 6, 1992, until 12 midnight, A.l.t., December 31, 1992.

Directed fishing standards for applicable gear types may be found in the regulations at § 675.20(h).

Classification

This action is taken under 50 CFR 675.21 and is in compliance with E. O. 12291.

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 5, 1992.

Alfred J. Bilik,

Acting Director of Office Fisheries, Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-13617 Filed 6-5 92; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 57, No. 112
Wednesday, June 10, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 946

[Docket No. FV-92-037]

Irish Potatoes Grown in Washington; Expenses and Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize expenditures and establish an assessment rate under Marketing Order No. 946 for the 1992–93 fiscal period (July 1, 1992, through June 30, 1993). Authorization of this budget would permit the State of Washington Potato Committee (Committee) to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

DATES: Comments must be received by July 10, 1992.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Martha Sue Clark, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, telephone 202–720–9918.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Agreement No. 113 and Order No. 946, both as amended (7 CFR part 946), regulating the handling of Irish potatoes grown in Washington. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This rule has been reviewed by the Department of Agriculture in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order now in effect Washington potato handlers are subject to assessment. Funds to administer the Washington potato order are derived from such assessments. This proposed rule would authorize expenditures and establish an assessment rate for the State of Washington Potato Committee for the fiscal period beginning July 1, 1992. While this proposed action would impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. This proposed rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Pursuant to the Requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 50 handlers of Washington potatoes under this marketing order, and approximately 450 producers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of Washington potato producers and handlers may be classified as small entities.

The budget of expenses for the 1992–93 fiscal year was prepared by the State of Washington Potato Committee, the agency responsible for local administration of the marketing order, and submitted to the Department of Agriculture for approval. The members of the Committee are producers and handlers of Washington potatoes. They are familiar with the Committee's needs and with the costs of goods and services in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Washington potatoes. Because that rate will be applied to actual shipments, it must be established at a rate that will provide sufficient income to pay the Committee's expenses.

The Committee met February 7, 1991, and unanimously recommended a 1992–93 budget of $38,100, $3,100 more than the previous year. Major increases are in the compliance audits, salaries, and compensation categories.

The Committee also unanimously recommended an assessment rate of $0.005 per cwt., the same as last season. This rate, when applied to anticipated shipments of 7 million hundredweight, would yield $35,000 in assessment income. This, along with $3,100 from the Committee's authorized reserve, would be adequate to cover budgeted expenses. Funds in the reserve at the beginning of the 1992–93 fiscal period, estimated at $27,634, would be within the maximum permitted by the order of two fiscal periods' expenses.

While this proposed action would impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the marketing order. Therefore, the Administrator of the AMS has

determined that this action would not have a significant economic impact on a substantial number of small entities.

A 30-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 946

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that 7 CFR Part 946 be amended as follows:

PART 946—IRISH POTATOES GROWN IN WASHINGTON

1. The authority citation for 7 CFR part 946 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. A new § 946.245 is added to read as follows:

§ 946.245 Expenses and assessment rate.

Expenses of $38,100 by the State of Washington Potato Committee are authorized, and an assessment rate of $0.005 per hundredweight of assessable potatoes is established for the fiscal period ending June 30, 1993. Unexpended funds may be carried over as a reserve.

Dated: June 4, 1992.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92–13603 Filed 6–9–92; 8:45 am]

BILLING CODE 3410–02–M

---

7 CFR Part 947

[Docket No. FV–92–055]

Oregon-California Potatoes; Expenses and Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize expenditures and establish an assessment rate under Marketing Order No. 947 for the 1992–93 fiscal period (July 1, 1992, through June 30, 1993). Authorization of this budget would permit the Oregon-California Potato Committee (Committee) to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

DATES: Comments must be received by June 22, 1992.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Marcha Sue Clerk, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, telephone 202–720–9918.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Agreement No. 114 and Order No. 947, both as amended (7 CFR part 947), regulating the handling of Irish potatoes grown in Oregon-California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (17 U.S.C. 601–674), hereinafter referred to as the Act.

This rule has been reviewed by the Department of Agriculture in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This proposed rule has been reviewed under Executive Order 12278, Civil Justice Reform. Under the marketing order now in effect Oregon-California potatoes are subject to assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable potatoes during the 1992–93 fiscal period, beginning July 1, 1992, through June 30, 1993. This proposed rule would not preempt any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition.

The Act provides that the district court of the United States in any district which the handler is an inhabitant, or has his principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 40 handlers of Oregon-California potatotes under this marketing order, and approximately 550 producers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of Oregon-California potato producers and handlers may be classified as small entities.

The budget of expenses for the 1992–93 fiscal year period was prepared by the Oregon-California Potato Committee the agency reponsible for local administration of the marketing order, submitted to the Department of Agriculture for approval. The members of the Committee are producers and handlers of Oregon-California potatoes. They are familiar with the Committee's needs and with the costs of goods and services in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Oregon-California potatoes. Because the same rate will be applied to actual shipments, it must be established at a rate that will provide sufficient income to pay the Committee's expenses.

The Committee met March 4, 1992, and unanimously recommended a 1992–93 budget of $44,750, $500 less than the previous year. Slight increases in the

inspection fees, miscellaneous, office supplies, postage, and telephone categories would be offset by a decrease in the equipment category.

The Committee also unanimously recommended an assessment rate of $0.005 per hundredweight, $0.001 more than last season. This rate, when applied to anticipated shipments of 7,350,000 hundredweight, would yield $36,750 in assessment income. This, along with $8,000 from the Committee's authorized reserve, would be adequate to cover budgeted expenses. Funds in the reserve at the beginning of the 1992–93 fiscal period, estimated at $12,000, would be within the maximum permitted by the order of one fiscal period's expenses.

While this proposed action would impose some additional costs on handlers, the cost are in the form of uniform assessments on all handlers. Some the additional costs may be passed on to producers. However, there costs would be offset by the benefits derived by the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

This action should be expedited because the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis.The 1992–93 fiscal year for the program begins on July 1, 1992, and the marketing order requires that the rate of assessment for the fiscal period apply to all assessable Oregon-California potatoes handled during the fiscal period. In addition, handlers are aware of this action which was recommended by the Committee at a public meeting. Therefore, it is found and determined that a comment period of 10 days is appropriate because the budget and assessment rate approval for this program needs to be expedited.

List of Subjects in 7 CFR Part 947

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 947 be amended as follows:

PART 947—IRISH POTATOES GROWN IN MODOC AND SISKIYOU COUNTIES, CALIFORNIA, AND IN ALL COUNTIES IN OREGON, EXCEPT MALHEUR COUNTY

1. The authority citation for 7 CFR part 947 continues to read as follows:

Authority. Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. A new § 947.243 is added to read as follows:

§ 947.243 Expenses and assessment rate.

Expenses of $44,750 by the Oregon-California Potato Committee are authorized, and an assessment rate of $0.005 per hundredweight of assessable potatoes is established for the fiscal period ending June 30, 1993. Unexpended funds may be carried over as a reserve.

Dated: June 4, 1992

Robert C. Keeney,

Deputy Director.

[FR Doc. 92–13604 Filed 6–9–92; 8:45 am]

BILLING CODE 3410–02–M

---

7 CFR Part 982

[FV–92–053PR]

Expenses and Assessment Rate for Filberts/Hazelnuts Grown in Oregon and Washington for the 1992–93 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize expenditures and establish an assessment rate under Marketing Order No. 982 for the 1992–93 marketing year (July 1, 1992, through June 30, 1993). Authorization of this budget would permit the Filbert/Hazelnut Marketing Board (Board) to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

DATES: Comments must be received by June 22, 1992.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Cleark, F&V, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Kathleen M. Finn, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456; telephone: (202) 720–2170.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 982 (7 CFR part 982), both as amended, regulating the handling of filberts/hazelnuts grown in Oregon and Washington. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

This proposed rule has been reviewed by the Department of Agriculture (Department) in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order provisions now in effect, filberts/hazelnuts grown in Oregon and Washington are subject to assessments. It is intended that the assessment rate proposed herein would be applicable to all assessable filberts/hazelnuts handled during the 1992–93 fiscal period, beginning July 1, 1992, through June 30, 1993. This proposed rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

Thus, both statutes have small entity orientation and compatibility.

There are approximately 20 handlers of filberts/hazelnuts grown in Oregon and Washington subject to regulation under the filbert/hazelnut marketing order, and approximately 1,000 producers of filberts/hazelnuts in the production area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of filbert/hazelnut producers and handlers may be classified as small entities.

The filbert/hazelnut marketing order requires that the assessment rate for a particular fiscal year shall apply to all assessable filberts/hazelnuts from the beginning of such year. An annual budget of expenses is prepared by the Filbert/Hazelnut Marketing Board (Board) and submitted to the Department for approval. The members of the Board are handlers and producers of filberts/hazelnuts. They are familiar with the Board's needs and with the costs for goods, services, and personnel in their local areas and are thus in a position to formulate an appropriate budget.

The assessment rate recommended by the Board is derived by dividing anticipated expenses by expected shipments of the commodity. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the Board's expected expenses. The recommended budget and assessment rate are usually acted upon by the Board shortly before a season starts, and expenses are incurred on a continuous basis. Therefore, the budget and assessment rate approvals must be expedited so that the Board will have funds to pay its expenses.

The Board conducted a telephone vote on March 13, 1992, and unanimously recommended 1992–93 marketing order expenditures of $387,605 and an assessment rate of $14.00 per ton of assessable filberts/hazelnuts. In comparison, 1991–92 marketing year budgeted expenditures were $388,050 and the assessment rate was $14.00 per ton.

Major expenditure categories in the 1992–93 budget, compared to those budgeted for 1991–92 (in parenthesis), are: Administation—$73,355 ($72,350); promotion—$200,000 ($200,000); and emergency reserve fund—$98,000 ($100,000). The emergency reserve fund would only be used if the crop exceeds 20,000 merchantable tons and an unforeseen emergency occurs during the fiscal year. In 1991–92, only $35,900 of the $100,000 emergency fund was used for promotion and marketing and computer services.

Assessment income for 1992–93 is expected to total $378,000 based on a crop estimate of 27,000 tons of assessable filberts/hazelnuts. Interest and incidental income for 1992–93 is estimated at $7,000. Operating reserve funds at the beginning of the 1992–93 fiscal period, estimated at $205,539, are well within the maximum permitted by the order of one fiscal period's expenses.

While this proposed action would impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be significantly offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

This action should be expedited because the Board needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. The 1992–93 fiscal period for the program begins on July 1, 1992, and the marketing order requires that the rate of assessment for the fiscal period apply to all assessable filberts/hazelnuts grown in Oregon and Washington during the fiscal period. In additional, handlers are aware of this action which was unanimously recommended by the Board. Therefore, it is found and determined that a comment period of 10 days is appropriate because the budget and assessment rate approval for this program needs to be expedited.

List of Subjects in 7 CFR Part 982

Filberts, Hazelnuts, Marketing agreements, Nuts, Reporting and Recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 982 is proposed to be amended as follows:

PART 982—FILBERTS/HAZELNUTS GROWN IN OREGON AND WASHINGTON

1. The authority citation for 7 CFR part 982 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. A new § 982.337 is added to read as follows:

§ 982.337 Expenses and assessment rate.

Expenses of $387,605 by the Filbert/Hazelnut Marketing Board are authorized and an assessment rate payable by each handler in accordance with section 982.61 is fixed at $14.00 per ton of assessable filberts/hazelnuts for the 1992–93 marketing year ending June 30, 1993. Unexpended funds may be carried over as a reserve.

Dated: June 3, 1992.

Robert C. Keenev,

Depty Director, Fruit and Vegetable Division.

[FR Doc. 92–13431 Filed 6–9–92; 8:45 am]

BILLING CODE 3410–02–M

POSTAL RATE COMMISSION

39 CFR Part 3001

[Order No. 926; Docket No. RM91–1]

Rules of Practice and Procedure

Issued June 2, 1992.

AGENCY: Postal Rate Commission.

ACTION: Request for Further Comments and Notice of Conference.

SUMMARY: The Commission initiated this rulemaking to solicit suggestions for improvements to its rules of practice and procedure. On June 1, 1992, a Joint Task Force on Postal Ratemaking established by the Commission and the Board of Governors of the Postal Service issued a report recommending some changes designed to improve the ratemaking process. The Joint Task Force recommended expeditious adoption of modifications. Interested parties are invited to submit, by June 15, 1992, written comments addressing the Joint Task Force's recommendations. Additionally a conference will be held on June 12, 1992, at 9:30 am in the Commission's hearing room for parties who wish to discuss the Task Force's ratemaking proposals. Copies of the Joint Task Force's report are available from the Commission.

DATES: June 12, 1992, for the conference. June 15, 1992, for written comments.

ADDRESSES: Correspondence should be sent to Charles L. Clapp, Secretary of the Commission 1333 H Street, NW., suite 300, Washington, DC 20268 (telephone: 202/789–6840). The conference will be held at that address.

FOR FURTHER INFORMATION CONTACT: David F. Stover, General Counsel, 1333 H Street, NW., suite 300, Washington, DC 20268 (telephone: 202/789–6820).

SUPPLEMENTARY INFORMATION: On June 1, 1992, the Commission received Postal Ratemaking in a Time of Change, a

report by the Joint Task Force on Postal Ratemaking established by the Postal Rate Commission and the Board of Governors of the United States Postal Service. That report contains a number of suggestions designed to improve the process for consideration of changes to postal rates and mail classifications. As such, it is directly relevant to Docket No. RM91–1, the rulemaking established by the Commission for the purpose of considering improvements to our rules of practice and procedure.

The Commission wants to have a broad spectrum of public viewpoints to assist it in its consideration of the proposals contained in this report. Therefore, we are providing a copy of this report to all participants in that rulemaking, as well as to all participants in the most recent omnibus rate case, Docket No. R90–1. Additionally, any interested person may obtain a copy of this report, either in person or by mail, from the Commission offices. We request that all interested members of the public review this report and provide their advice on whether the proposals offered by the Task Froce have the potential to improve the process for public review of postal rate and classification changes; and are likely to assist that process to arrive at recommendations which reflect realistic projections of Postal Service's future costs and revenues.

The Task Force report suggests that the Commission initially focus on its proposals for changes affecting rate cases. It suggests the Commission attempt to implement new rate case rules by mid-August 1992, so that the Postal Service will have sufficient notice of any new procedures to incorporate them into its next omnibus rate case filing, which the Task Force evidently assumes may occur early in 1993.

The Commission recognizes that developing new rules which preserve procedural fairness while incorporating significant procedural changes within the two and half-month period suggested by the Task Force may not be possible. However, we also recognize the wisdom of attempting to implement improvements in the ratemaking process sufficiently promptly so that the benefits of these improvements will be enjoyed during the next rate case. Therefore, we shall attempt to expedite the consideration of the rate case-related proposals contained in the Task Force report.

The first step in considering these proposal will be to seek general comments on the theories and policies underlying these proposals. In particular, the Commission requests that interested members of the public provide their views on either, or both, of the following two concepts, as described more fully in the Report:

(1) That the Commission use a four-year prospective test period in omnibus rate cases, with the expectation that rates would change at the beginning of this period, and be adjusted to reflect events after half the period has elasped (see especially Chapter III of the report); and

(2) That mail services in direct competition with similar private services be accorded broad rate recommendations which allow increased pricing flexibility for the Postal Service (as described in Chapter IV of the report).

A conference to allow parties to express their views orally, and comment concerning positions presented by others will be convened on Friday, June 12, at 9:30 a.m. in the hearing room at the Commission, 1333 H Street, NW., suite 300, Washington, DC.

Interested participants are also invited to submit written comments on these topics on or before June 15, 1992. While additional written comments on the legal and policy issues involved in the Task Force proposals will be welcome at any time during this rulemaking proceeding, this initial set of written and oral comments will be used by the Commission to develop draft rules designed to implement the most promising aspects of these two specific Task Force ratemaking proposals.

The Commission contemplates publishing draft proposals so that interested participants will have an opportunity to comment on actual proposals as well as on inchoate policy suggestions. It is our current expectation to develop such proposed rules promptly and seek additional comments during July 1992.

It is ordered:

1. The report entitled Postal Ratemaking in a Time of Change prepared by the Joint Task Force on Posal Ratemaking established by the Postal Rate Commission and the Board of Governors of the United States Postal Service is incorporated into the record of this proceeding.

2. A conference to discuss rate case-related proposals contained in this report will be held on June 12, at 9:30 a.m., in the Commission hearing room.

3. Interested persons are invited to submit written comments on the legal and/or policy issues arising from the rate case-related proposals contained in this report by June 15, 1992.

By the Commission.

Charles L. Clapp,

Secretary.

[FR Doc. 92–13543 Filed 6–9–92; 8:45 am]

BILLING CODE 7710–FW–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 4E3060/P544; FRL–4086–8]

RIN 2070–AC18

Pesticide Tolerance for 2,4-D

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for residues of the herbicide 2,4-dichlorophenoxyacetic acid (referred to in this document as 2,4-D) in or on the raw agricultural commodity soybeans. The proposed regulation to establish a maximum permissible level for residues of the herbicide in or on soybeans was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATES: Comments, identified by the document control number [PP 4E3060/P544], must be received on or before July 10, 1992.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1128, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1128 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt L. Jamerson, Emergency

Response and Minor Use Section (H7505C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 716, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-5310.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 4E3060 to EPA on behalf of the Agricultural Experiment Stations of Illinois, Iowa, Ohio, and South Dakota. The petition requests that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)), establish a tolerance for residues of the herbicide 2,4-D in or on the raw agricultural commodity soybeans at 0.1 part per million (ppm). The Agency proposes to establish the requested tolerance with an expiration date of December 1995. Conditional registration will be issued for 2,4-D ester and 2,4-D amine formulations concurrent with the establishment of this tolerance to control susceptible broad-leaf weeds prior to planting soybeans under no-tillage or reduced-tillage production. As a condition of registration, EPA is requiring the submission of additional studies described later in this document. Conditional registration will expire in December 1994.

No-tillage or reduced tillage are agricultural practices that involve planting and crop production with minimum disruption of the soil surface. Soil conservationists largely advocate reduced or no-tillage practices to reduce soil and fertilizer run-off, soil water loss, and fuel costs. Soil conservation compliance is mandated by the 1990 Farm Bill and by an agreement between the United States and Canada through the International Joint Commission. The International Joint Commission is in charge of reducing sediment and phosphorus in the Great Lakes.

One of the disadvantages of reduced tillage is the frequent need for herbicides to "burn-down" weeds prior to planting. At present there are two herbicides, glyphosate and paraquat, that can be used for "burn-down" of weeds prior to planting soybeans. The use of either of these herbicides would increase production costs by $5 to $8 per acre over the cost of 2,4-D. Data from the Conservation Technology Information Center indicate that by 1995, 20 million acres of soybeans may be grown under reduced tillage.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance for 2,4-D include:

1. A subchronic dietary study with mice fed diets containing 0, 1, 15, 100, and 300 milligrams(mg)/kilogram (kg)/day with a no-observed-effect-level (NOEL) of 15 mg/kg/day. The lowest-observed-effect-level (LOEL) was established at 100 mg/kg/day based on decreased glucose and thyroxine levels, increases in absolute and relative kidney weights, and histopathological lesions in the liver and kidneys.

2. A 90-day dietary study in rats fed diets containing 0, 1, 15, 100, or 300 mg/kg/day resulted in a NOEL of 15 mg/kg/day and an LOEL of 100 mg/kg/day. The LOEL was based on decreases in body weight and food consumption, alterations in clinical pathology, changes in organ weights, and histopathological lesions in the kidney, liver, and adrenals of both sexes of rats.

3. A 90-day feeding study in dogs fed diets containing 0, 0.3, 1, 3, and 10 mg/kg/day with a NOEL of 1 mg/kg/day. The LOEL was established at 3 mg/kg/day based on histopathological changes in the kidneys of male dogs.

4. A two-generation reproduction study in rats with NOEL's for parental and developmental toxicity of 5 mg/kg/day. The LOEL's for this study are established at 20 mg/kg/day based on reductions in body weight gain in F_0 and F_{2b} pups, and reduction in pup weight at birth and during lactation.

5. A teratology study in rabbits given gavage doses at 0, 10, 30, and 90 mg/kg on days 6 through 18 of gestation was negative for developmental toxicity at all doses tested.

6. A teratology study in rats given gavage doses at 0, 8, 25, and 75 mg/kg on days 6 through 15 of gestation was negative for developmental toxicity at all doses tested. A NOEL for fetotoxicity was established at 25 mg/kg/day based on delayed ossification at the 75 mg/kg dose level.

7. Mutagenicity studies including gene mutation, chromosomal aberrations, and direct DNA damage tests were negative for mutagenic effects.

8. A 2-year feeding/carcinogenicity study in mice fed diets containing 0, 1, 15, and 45 mg/kg/day with a NOEL of 1 mg/kg/day. The systemic LOEL was established at 15 mg/kg/day based on increased kidney and adrenal weights and homogeneity of renal tubular epithelium due to cytoplasmic vacuoles. No carcinogenic effects were observed under the conditions of the study at any dosage level tested.

9. A 2-year feeding/carcinogenicity study in rats fed diets containing 0, 1, 15, and 45 mg/kg/day with a NOEL of 1 mg/kg/day. Although there appeared to be a slight treatment-related incidence of benign brain tumors (astrocytomas) in male rats fed diets containing 45 mg/kg/day, two different statistical evaluations found no strong statistical evidence of carcinogenicity in male rats. There were no carcinogenic effects observed in female rats.

The Agency has concluded that new mouse and rat carcinogenicity studies are needed to assess the carcinogenicity potential of 2,4-D. New studies are required since the Agency believes that the maximum tolerated dose was not achieved at the highest feeding level in either study. New carcinogenicity studies are required to be submitted to EPA by October 1993.

EPA issued preliminary notifications of Special Review to the registrants of 2,4-D on September 22, 1986, based on the findings of an epidemiology study which reported an association between the use of phenoxy herbicides, including 2,4-D, and non-Hodgkins lymphomas (NHL), a type of cancer that originates in the lymphatic system. After completing a thorough examination of the epidemiology and laboratory evidence, EPA published a proposed decision not to initiate Special Review based on the opinion of scientists in EPA's Office of Pesticide Programs (OPP), toxicology and epidemiology experts, and the FIFRA Scientific Advisory Panel (SAP) that existing data are inadequate or insufficient to assess the carcinogenic potential of 2,4-D. Information relating to the carcinogenicity potential of 2,4-D and EPA's proposed decision not to initiate a Special Review are discussed in a **Federal Register** notice of March 23, 1988 (53 FR 9590).

The Agency subsequently announced in a **Federal Register** notice of October 13, 1989 (54 FR 42032), that two new epidemiology studies, initiated by the National Cancer Institute (NCI), will be considered along with existing epidemiologic, toxicologic, and other supporting data before making a determination on whether or not to initiate a Special Review for 2,4-D. In the interim, the Office of Pesticide Programs has classified 2,4-D as a Category D carcinogen (not classifiable as to human carcinogenicity) based on inadequate evidence of cancer in humans and laboratory animals.

Tolerances for 2,4-D are established for a wide variety of raw agricultural commodities ranging from 0.05 ppm on strawberries to 1,000 ppm on rangeland

and pasture grasses. Tolerances for 2,4-D are currently listed in 40 CFR 180.142, paragraphs (a) through (j). The paragraphs correspond to specific formulations of 2,4-D and/or use patterns approved for use. Tolerances established in support of agricultural uses of 2,4-D (i.e., the application of 2,4-D for crop production purposes) are listed in paragraphs (a), (b), (d), (e), and (j) of 40 CFR 180.142. Tolerances for 2,4-D listed under paragraphs (c), (f), and (i) of the section are established for residues resulting from the use of 2,4-D for aquatic weed control or application to irrigation ditch banks in the western U.S. The tolerances listed under paragraphs (c) and (f) of the section are established specifically for residues resulting from the use of irrigation water on growing crops from aquatic sites or irrigation ditch banks treated with 2,4-D. Tolerances are also established for secondary residues of 2,4-D and/or its metabolite 2,4-dichlorophenol in food products of animal origin ranging from 0.05 ppm in eggs and poultry, 0.1 ppm in milk, to 0.2 ppm in a variety of byproducts from cattle, goats, hogs, horses, and sheep.

Although tolerances are already established under 40 CFR 180.142(f) for residues of 2,4-D on members of the crop group seed and pod vegetables (which includes soybeans) at 1.0 ppm, these tolerances were not established in support of the proposed preplant use of 2,4-D for soybean production. Tolerances listed under § 180.142(f) are established for residues of 2,4-D on seed and pod vegetables resulting from use of irrigation water from aquatic sites approved for the application of the dimethylamine salt of 2,4-D for water hyacinth control in programs conducted by the Corps of Engineers or other Federal, State, or local public agencies.

Field residue studies conducted at the maximum proposed application rate and at exaggerated application rates from Maryland and Iowa indicate that residues of 2,4-D will be nondetectable in soybeans from the proposed use of the 2,4-D ester formulation for reduced-tillage soybean production. Residues resulting from the proposed use of 2,4-D amine formulations are also expected to be nondetectable.

In making tolerance decisions, EPA compares the reference dose (RfD) with the theoretical maximum residue contribution (TMRC) or the anticipated residue contribution (ARC) of the pesticide to the daily diet. The amount of a pesticide in the human diet to which people are exposed depends on the amount of the pesticide remaining on various foods at the time the food is consumed, the percentage of the crop treated with the pesticide, and the composition of the diet. The TMRC is a "worst case" assessment, which is a useful tool for identifying potential dietary exposure problems. When a TMRC exposure estimate shows risk levels of concern, EPA then reassesses dietary exposure using available information to develop the ARC, which is a more accurate measure of dietary exposure.

The TMRC is based on assumptions that residues are at tolerance level for all foods and that all commodities that have established tolerances are treated with the pesticide. Although tolerances define the maximum allowable levels for pesticide residues in food, the method of establishing tolerances assures that pesticide residues are below the tolerance when the food is consumed. Actual residue monitoring data for many pesticides confirm that pesticide residues are well below tolerance. Tolerances are set high enough to cover residues that result from the use of the pesticide at maximum application rates, maximum frequency of application, and the minimum preharvest interval. Even under this maximum-use scenario, average residue values are generally well below the tolerance level. Lower use rates will generally decrease these levels even further. In addition, available pesticide usage data generally confirm that the total acreage of many crops is not treated with all pesticides for which tolerances are established. The ARC is a more realistic assessment of dietary exposure since it more closely approximates the amount of pesticide residues on food at the time it enters the market. The ARC may also account for adjustments to dietary exposure based on the estimated percentage of the commodity treated with the pesticide.

An estimate of 2,4-D residues in the human diet, based on available data, is likely to overstate dietary exposure for two important reasons. First, tolerance level residues were used for all commodities to estimate dietary exposure. There are insufficient data to estimate the amount of residue on treated commodities when they enter the market. As explained above, an estimate of dietary exposure based on tolerance level residues can significantly overstate exposure. Second, in the absence of actual usage data, the Agency assumed 100-percent treatment for several commodities that represent a significant contribution to the human diet.

Another factor to be considered in estimating dietary exposure is the existence of tolerances established for residues of 2,4-D at various levels on the same commodity. For example, there are three different tolerances established for stone fruits ranging from 0.1 ppm to 1.0 ppm. There is a tolerance of 0.1 ppm for negligible residues resulting from application of the dimethylamine salt of 2,4-D to irrigation ditch banks in the western U.S. (40 CFR 180.142(c)); a tolerance of 0.2 ppm for residues resulting from agricultural uses (40 CFR 180.142(a)); and a tolerance of 1.0 ppm for residues from application of the dimethylamine salt for water hyacinth control in programs conducted by the Corps of Engineers or other Federal, State, or local public agencies (40 CFR 180.142(f)). Since agricultural uses are the major sources of 2,4-D residues in food, the Agency has calculated dietary exposure for 2,4-D based on tolerances established for its agricultural uses (40 CFR 142(a), (b), (d), (e), and (j)) and the tolerances established for secondary residues in meat, milk, poultry, and eggs. Although the tolerances established for agricultural uses are in some cases lower than the tolerances established for aquatic uses of 2,4-D, any underestimate of dietary exposure resulting from the use of the agricultural tolerances will be overshadowed by overestimates of dietary exposure produced by the factors mentioned above.

The provisional reference dose (RfD), based on the 2-year feeding study in rats (NOEL of 1 mg/kg/day) and using an uncertainty factor of 300, is calculated to be 0.003 mg/kg body weight (bwt)/day. Tolerance level residues and available percent of crop-treated information were used to calculate dietary exposure from the agricultural uses of 2,4-D. Dietary exposure to residues of 2,4-D is estimated at 0.003246 mg/kg bwt/day (108 percent of the RfD) for the U.S. population and 0.017838 mg/kg bwt/day (595 percent of the RfD) for nonnursing infants. Assuming tolerance level residues of 0.1 ppm on 100 percent of the soybean acreage, this action will increase dietary exposure by 0.000034 mg/kg (bwt)/day for the general population and 0.000163 mg/kg (bwt)/day for nonnursing infants, an increase of approximately 1 percent for each group.

The Agency concludes that the amount of pesticide added to the human diet from this use will not significantly increase dietary exposure. Thus the tolerance established by this proposed rule is considered to pose a negligible incremental risk to human health.

EPA's experience with pesticides which appear to have an RfD exceedance has generally been that

these exceedances disappear when more realistic exposure data are obtained. Nonetheless, EPA is usually unwilling to establish new uses and the concomitant tolerances for pesticides where exposure exceeds the RfD. EPA has approved additional uses of some pesticides when the total exposure from all uses appears to exceed the RfD, provided the additional uses result in insignificant exposure. EPA believes such actions are appropriate given its experience showing that many risk estimates substantially overstate risk when tolerance level residues are used to estimate dietary exposure. As noted above, there are other factors which strongly indicate EPA's estimate of exposure to 2,4-D is overstated, including the assumption that 2,4-D is used on 100 percent of several commodities and the available data that report nondetectable residues of 2,4-D in soybeans. Establishment of a tolerance for preplant soybean use of 2,4-D is additionally justified by the potentially large benefits accruing from this use.

Because residue studies have not been submitted which are geographically representative of the total U.S. soybean production area, residue studies from several additional soybean-producing States will be required as a condition for registration of the proposed use. In addition, EPA requires data depicting the total terminal residue of carbon-14 labeled 2,4-D in three dissimilar crops, and ruminants and poultry to complete an evaluation of the metabolism of 2,4-D in plants and animals. The metabolism studies, which are required in association with the reregistration of 2,4-D, are due to be submitted to the Agency in 1992. In the interim, for purposes of this tolerance, the regulated residues are 2,4-dichlorophenoxyacetic acid for plants and 2,4-dichlorophenoxyacetic acid and 2,4-dichlorophenol for animal commodities. The registrant has been notified that additional data requirements such as livestock feeding studies, analytical methods, storage stability, and residue studies may be required, pending the outcome of EPA's evaluation of the 2,4-D plant and animal metabolism studies.

EPA is limiting the period of time that the proposed tolerance for 2,4-D on soybeans is to be in effect due to the requirements for additional residue chemistry and carcinogenicity studies. Limiting the time period of the tolerance will require the proponents of a permanent tolerance for this use of 2,4-D to demonstrate that the additional data support such a decision. The Agency concludes that residues of 2,4-D in the human diet from the proposed use are unlikely to pose a significant incremental risk, pending the submission of the required studies and a reassessment of 2,4-D food and feed tolerances.

An adequate analytical method, gas-liquid chromatography, is available for enforcement purposes. Because of the long lead time from establishing this tolerance to publication of the enforcement methodology in the Pesticide Analytical Manual (PAM), Vol. II, the analytical methodology is being made available in the interim to anyone interested in pesticide enforcement when requested by mail from: Calvin Furlow, Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1128C, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, 703-305-5232.

Any secondary residues occurring in meat, milk, poultry, or eggs from the feeding of processed soybean byproducts to livestock will be covered by existing tolerances for these commodities. A restriction against the grazing of treated fields and the feeding of treated soybean forage, hay, and fodder to livestock will be imposed on the registration. There are currently no actions pending against the continued registration of this chemical.

Based on the above information, the Agency concludes that the tolerance established by amending 40 CFR 180.142 would protect the public health. Therefore, it is proposed that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 4E3060/P544] . All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 19, 1992.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.142, by adding new paragraph (k), to read as follows:

§ 180.142 2,4-D; tolerances for residues.

* * * * *

(k) A tolerance that expires on December 1995 is established for residues of the herbicide 2,4-D (2,4-dichlorophenoxyacetic acid) resulting from the preplant use of 2,4-D ester or amine in or on the raw agricultural commodity as follows:

Commodity	Parts per million
Soybeans	0.1

[FR Doc. 92-13615 Filed 6-9-92; 8:45 am]
BILLING CODE 6560-50-F

40 CFR Part 799

[OPPTS-42002M; FRL-4055-9]

Fluoroalkenes; Proposed Withdrawal of Test Requirement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to rescind the requirement in the fluoroalkenes final rule issued under the authority of the Toxic Substances Control Act (TSCA) for mouse specific locus (MSL) testing of vinyl fluoride (VF; CAS No. 72–02–5), vinylidene fluoride (VDF; CAS No. 75–38–7), hexafluoropropene (HFP; CAS No. 116–15–4), and tetrafluoroethene (TFE; CAS No. 116–14–3). EPA's proposed decision is based on the analysis of scientific data submitted by the testing sponsors of these substances which demonstrated that VF, VDF, HFP, and TFE are unlikely to elicit gene mutation effects in humans.

DATES: Submit written comments on or before July 27, 1992.

ADDRESS: Submit written comments, identified by the document control number (OPPTS–42002M), in triplicate to: TSCA Public Docket Office (TS–793), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. NE–G004, 401 M St., SW., Washington, DC, 20460.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (TS–799), Office of Pollution Prevention and Toxics, Rm. E–543B, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD: (202) 554–0551.

SUPPLEMENTARY INFORMATION: EPA is proposing to rescind its requirement under section 4(a) of TSCA for MSL testing of VF, VDF, TFE, and HFP.

I. Introduction

EPA promulgated a final test rule for fluoroalkenes (FAs; 52 FR 21516, June 8, 1987) under TSCA section 4(a)(1)(A) to include tiered mutagenicity testing of VF. This testing was the sex-linked recessive lethal (SLRL) test in *Drosophila*, where a positive result would lead to a MSL assay; and the dominant lethal test in rodents, where a positive result would lead to a heritable translocation assay. VF was also required to be tested for oncogenicity by inhalation in both rats and mice (final reports due July 22, 1992). Three other fluoroalkenes, VDF, TFE, and HFP were also required to be tested for mutagenicity.

II. Results from Required Testing

Under the FAs test rule, the test leading to MSL testing, the *Drosophila* SLRL test, was performed for VF and was positive. However, this was not an automatic trigger to MSL testing. The FAs test rule provided for a public review of the *Drosophila* data, with opportunity for public comment on EPA's assessment of the weight of the evidence, before proceeding with MSL testing. The only other fluoroalkene for which *Drosophila* SLRL testing was necessary was VDF, which was negative in this test. Furthermore, both HFP and TFE were negative in the somatic cells in culture assay (which was an automatic trigger (if positive) to *Drosophila* SLRL testing). Therefore, *Drosophila* SLRL testing and MSL testing were not required for them.

A public program review was held on July 19, 1989, with E. I. du Pont de Nemours Company, Inc. (DuPont), the test sponsor, as a participant. At this meeting, DuPont presented evidence that two other assays, the unscheduled DNA synthesis (UDS) and alkaline elution (AE) assays in rat testicular cells, are better correlates than the *Drosophila* SLRL test to the MSL assay. In light of this evidence, EPA agreed, conditioned on protocol approval and subsequent review of the study results by EPA, to allow DuPont to perform both of these tests, and, if both were negative, to re-review the available data. The UDS and AE assays have been performed, and EPA has completed its review. Both the UDS and AE assays were negative. Furthermore, the dominant lethal assay was also negative (the dominant lethal assay, an *in vivo* test, is used primarily to evaluate cytogenetic effects, but does have some relevance to gene mutation effects as well). EPA believes the weight of these three negative studies in mammals contraindicates performing MSL testing for VF, despite the positive *Drosophila* SLRL test. Therefore, EPA is proposing to rescind the MSL testing requirement that was triggered for VF, and to concurrently withdraw the requirement for MSL testing for VDF, HFP, and TFE.

III. Rulemaking record

EPA has established a record for this rulemaking (docket number OPPTS–42002M). This record includes:

(1) **Federal Register** notices pertaining to this rule, consisting of:

(a) Notice of the Agency's Proposed Decision to Adopt a Negotiated Testing Program on Fluoroalkenes (49 FR 23112, June 4, 1984).

(b) Notice of the Agency's Proposed Rulemaking on Fluoroalkenes (50 FR 46133, November 6, 1985).

(c) Notice of the Agency's Final Rulemaking on Fluoroalkenes (52 FR 21516, June 8, 1987).

(2) Transcript of Proceedings of the Public Meeting of July 19, 1989, on Fluoroalkenes.

(3) Reports—published and unpublished factual materials, including mutagenicity protocols and testing results on VF.

(4) Communications consisting of:

(a) Written letters.

(b) Memoranda.

List of Subjects in 40 CFR Part 799

Chemicals, Environmental Protection, Hazardous substances, Laboratories, Reporting and recordkeeping requirements, Testing.

Dated: May 31 1992.

Linda J. Fisher,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR chapter I, part 799 is proposed to be amended as follows:

PART 799—[AMENDED]

1. The authority citation for part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

§ 799.1700 [Amended]

2. In § 799.1700, by removing paragraph (c)(l)(i)(C).

[FR Doc. 92–13616 Filed 6–9–92; 8:45 am]
BILLING CODE 6560–50–F

FEDERAL MARITIME COMMISSION

46 CFR Parts 515, 560, and 572

[Docket No. 92–33]

Marine Terminal Facilities Agreements—Exemption

AGENCY: Federal Maritime Commission.

ACTION: Proposed Rule.

SUMMARY: The Federal Maritime Commission (Commission) proposes to amend its regulations to exempt marine terminal facilities agreements among marine terminal operators and between marine terminal operators and common carriers by water from the agreement filing requirements of the Shipping Act, 1916, the Shipping Act of 1984, and the Commission's regulations, on condition that certain agreement information be filed in marine terminal operator's tariffs and that terminal operators make copies of such agreements available to requesting parties. This proposed exemption would relieve the industry of the administrative burden and associated costs of filing marine terminal facilities agreements with the Commission.

DATES: Comments due July 10, 1992. Comments must be received at the Commission by the due date; the date of mailing will not be accepted as the date of filing in this proceeding.

ADDRESSES: Comments (original and 15 copies) are to be submitted to: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573, (202) 523–5725.

FOR FURTHER INFORMATION CONTACT: Austin L.Schmitt, Director, Bureau of Trade Monitoring and Analysis, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573, (202) 523–5787.

SUPPLEMENTARY INFORMATION: 46 CFR part 515, Filing of Tariffs by Marine Terminal Operators, sets forth regulations covering the filing of terminal tariffs by persons engaged in carrying on the business of furnishing wharfage, dock, warehouse or other terminal facilities within the United States or a commonwealth, territory, or possession thereof, in connection with a common carrier by water in the foreign or domestic offshore commerce of the United States.

46 CFR part 560, Agreements by Common Carriers and Other Persons Subject to the Shipping Act, 1916, implements those provisions of the Shipping Act, 1916 ("1916 Act"), 46 App. U.S.C. 801 *et seq.*, that govern agreements between common carriers by water in interstate commerce or other persons subject to the 1916 Act. Part 560 establishes procedures for filing agreements and supporting statements pursuant to section 15 of the 1916 Act, 46 App. U.S.C. 814, filing comments and protests to such agreements, the disposition of agreements, and agreement reporting and record retention requirements.

46 CFR part 572, Agreements by Ocean Common Carriers and Other Persons Subject to the Shipping Act of 1984, implements those provisions of the Shipping Act of 1984 ("1984 Act"), 46 U.S.C. app. 1701 *et seq.*, that govern agreements between ocean common carriers, agreements (to the extent they involve ocean transportation in the foreign commerce of the United States) between marine terminal operators, and agreements between one or more marine terminal operators and one or more ocean common carriers. Part 572, *inter alia*, identifies those classes of agreements that are exempt from filing or information requirements.

The Commission proposes to discontinue the requirement contained in 46 CFR parts 560 and 572 that marine terminal facilities agreements be filed with the Commission. This proposed exemption is conditioned on marine terminal operators listing their marine terminal facilities agreements (e.g., leases, sub-leases, licenses, permits, assignments), and amendments thereto, in the individual tariffs they file with the Commission pursuant to 46 CFR part 515 (and in part 514, which, when finalized, will implement the Automated Tariff Filing and Information System ("ATFI")—see §§ 514.1(b) and 514.1(c)(3) of part 514 as proposed in Docket No. 90–23 on September 9, 1991 (56 FR 46055)). Such listings would identify: (1) The names of the parties involved, (2) the facilities covered by the agreement, and (3) the date on which the facilities agreement becomes effective.

This proposed exemption would relieve the industry of the administrative burden and associated costs of filing marine terminal facilities agreements with the Commission. Additionally, the Commission would realize cost savings resulting from termination of the current process of reviewing, processing, and maintaining maritime facilities agreements, noticing them in the **Federal Register** and retrieving, copying, and providing copies of them to requesting parties (who appear to be almost exclusively other marine terminal operators).

Although interested parties no longer would be able to obtain copies of marine terminal facilities agreements from the Commission under the proposed exemption, the Commission proposes to require marine terminal operators to make their current marine terminal facilities agreements available to any and all interested parties. A nominal copying fee for this service will be permissible. Thus, any benefits associated with the public availability of marine terminal facilities agreements should be preserved.

Finally, the proposed exemption applies only to the filing requirement and does not absolve the parties to marine terminal facilities agreements from other requirements of the 1916 an 1984 Acts.

Section 35 of the 1916 Act, 46 app. U.S.C. 833a, and section 16 of the 1984 Act, 46 U.S.C. app. 1715, provide that the Commission may by order or rule exempt for the future any specified activity of persons subject to the 1916 Act or the 1984 Act from any requirement of the 1916 Act, the 1984 Act, or Intercoastal Shipping Act, 1933, 46 App. U.S.C. 843 *et seq.*, where the Commission finds that such exemption will not substantially impair effective regulation by the Commission, be unjustly discriminatory, result in a substantial reduction in competition (1984 Act only), or be detrimental to commerce. It appears that the proposed exemption would meet these criteria.

Although the Commission, as an independent regulatory agency, is not subject to Executive Order 12291, dated February 17, 1981, it nevertheless has reviewed the rule in terms of that Order and has determined that the rule is not a "major rule" as defined in Executive Order 12291 because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovations, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

The Federal Maritime Commission also certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that this rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units and small government jurisdictions.

The collection of information requirements contained in the proposed rule have been submitted to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511), as amended. Public reporting burden for this amendment is estimated to average 45 minutes per response for part 560 and 45 minutes per response for part 572, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing the review and collection of information. Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be sent to Norman W. Littlejohn, Director, Bureau of Administration, Federal Maritime Commission and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

List of Subjects

46 CFR Part 515

Freight; Harbors; Reporting and recordkeeping requirements; Tariffs; Warehouses.

46 CFR Part 560

Administrative practice and procedure; Agreements, Antitrust; Freight; Maritime carriers; Penalties; Reporting and recordkeeping requirements.

46 CFR Part 572

Administrative practice and procedure; Agreements; Maritime carriers; Reporting and recordkeeping requirements.

Therefore, pursuant to 5 U.S.C. 553; 46 U.S.C. app. 816, 820, 841a, 1709, 1714 and 1716, parts 515, 560, and 572 of title 46, Code of Federal Regulations, are proposed to be amended as follows:

PART 515—[AMENDED]

1. The authority citation for part 515 continues to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 816, 820, 833a, 841a, 1709, 1714, 1715, and 1716.

2. Section 512.2 is amended by revising the first sentence to read as follows:

§ 515.2 Purpose.

The purpose of this part is to enable the Commission to discharge its responsibilities under section 17 of the Shipping Act, 1916 and section 10 of the Shipping Act of 1984, by keeping informed of current terminal facilities agreements, practices, rates and charges related thereto, instituted and to be instituted by marine terminals, and by keeping the public informed of such practices. * * *

3. Section 515.4 is amended by designating the existing text as paragraph (a) and by adding a new paragraph (b) to read as follows:

§ 515.4 Filing of tariffs and tariff changes.

(a) * * *

(b) Every tariff shall identify all marine terminal facilities agreements currently in effect to which the terminal operator is a party as prescribed in §§ 560.309 and 572.311 of this chapter.

PART 560—[AMENDED]

4. The authority citation for part 560 continues to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 814, 817(a), 820, 833a and 841a.

5. Part 560 is amended by adding § 560.309 to subpart C to read as follows:

§ 560.309 Marine terminal facilities agreement—exemption.

(a) *Marine terminal facilities agreement* means any agreement between or among two or more marine terminal operators, or between one or more marine terminal operators and one or more common carriers by water in interstate commerce, which conveys to any of the involved parties any rights to operate any marine terminal facility by means of a lease, license, permit, assignment, land rental, or other similar arrangement for the use of marine terminal facilities or property.

(b) All marine terminal facilities agreements as defined in § 560.309(a) are exempt from the filing and approval requirements of section 15 of the Shipping Act, 1916, and this part 560, on the condition that copies of the marine terminal facilities agreement be made available to any requesting party, and that information identifying facilities agreements currently in effect appear in the marine terminal tariff filed with the Commission as required by part 515 of this chapter. A nominal copying fee may be charged for providing copies of agreements. The identifying information shall include:

(1) The names and mailing address of all parties to all marine terminal facilities agreements, and subsequent amendments thereto, currently in effect to which the terminal operator is a party;

(2) Identification of the terminal facilities covered by the agreement and amendments thereto; and

(3) The effective date for each marine terminal agreement, and amendments thereto, currently in effect.

PART 571—[AMENDED]

6. The authority citation for part 572 continues to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 1701–1707, 1709–1710, 1712 and 1714–1717.

7. Part 572 is amended by adding § 572.311 to subpart C to read as follows:

§ 572.11 Marine terminal facilities agreement—exemption.

(a) *Marine terminal facilities agreement* means any agreement between or among two or more marine terminal operators, or between one or more marine terminal operators and one or more ocean common carriers, which conveys to any of the involved parties any rights to operate any marine terminal facility by means of a lease, license, permit, assignment, land rental, or other similar arrangement for the use of marine terminal facilities or property.

(b) All marine terminal facilities agreements as defined in § 572.311(a) are exempt from the filing and waiting period requirements of sections 5 and 6 of the Shipping Act of 1984 and this part 572, on the condition that copies of the marine terminal facilities agreement be made available to any requesting party, and that information identifying facilities agreements currently in effect appear in the marine terminal tariff filed with the Commission as required by part 515 of this chapter. A nominal copying fee may be charged for providing copies of agreements. The identifying information shall include:

(1) The names and mailing addresses of all parties to all marine terminal facilities agreements, and subsequent amendments thereto, currently in effect to which the terminal operator is a party;

(2) Identification of the terminal facilities covered by the agreement and amendments thereto; and

(3) The effective date for each marine terminal agreement, and amendments thereto, currently in effect.

By the Commission.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 91–13612 Filed 6–9–92; 8:45 am]

BILLING CODE 6730–01–M

---

46 CFR Parts 560 and 572

[Docket No. 92–32]

Amendments to Agreement Recordkeeping Regulations

AGENCY: Federal Maritime Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Maritime Commission ("Commission") proposes to amend its regulations in parts 560 and 572 governing the filing of agreements under, respectively, the Shipping Act, 1916 ("1916 Act") and the Shipping Act of 1984 ("1984 Act"). The intent of this proposal is to ease the regulatory burden of recordkeeping and filing of required reports with the Commission.

DATES: Comments due July 10, 1992. Comments must be received at the Commission by the due date; the date of mailing will not be accepted as the filing date in this proceeding.

ADDRESSES: Comments (original and 15 copies) are to be submitted to: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523–5725.

FOR FURTHER INFORMATION CONTACT: Austin L. Schmitt, Director, Bureau of Trade Monitoring and Analysis, 1100 L Street, NW., Washington, DC 20573, (202) 523–5787.

SUPPLEMENTARY INFORMATION:

Background

46 CFR part 560 implements those provisions of the 1916 Act that govern agreements between common carriers by water in interstate commerce or other persons subject to that Act. This part also establishes procedures for filing agreement approval requests and supporting statements pursuant to section 15 of the Act, filing comments

and protests to such agreements and responses, the disposition of agreement approval requests, and reporting and record retention requirements.

Likewise, 46 CFR part 572 implements those provisions of the 1984 Act that govern agreements between ocean common carriers, agreements (to the extent they involve ocean transportation in the foreign commerce of the U.S.) between marine terminal operators, and agreements between one or more marine terminal operators and one or more ocean common carriers. This part identifies those classes of agreements that require specific record retention and reporting to the Commission and prescribes the applicable period of record retention, the form and content of such reporting, and the applicable time periods for filing with the Commission.

Discussion

The Commission believes that it is possible to revise several of the regulations under 46 CFR parts 560 and 572 in such a manner as to decrease the costs to the private sector with no apparent impact on efficient and effective regulation. For the most part, these revisions consolidate the filing of shippers' requests and complaints, index of documents and reports on carrier consultation with shippers and shippers' associations into one filing as part of agreement minutes.

Given that shippers' requests and complaints and consultations are discussed at agreement meetings, and documents of potential interest to the Commission are circulated at these meetings, it is appropriate to require such reports to be filed with the agreement minutes rather than separately at different intervals, as is currently required in 46 CFR parts 560 and 572. These proposed revisions should reduce the paperwork burden and associated costs on a conference, since shippers' requests and complaints would be included with minutes filings instead of their own separate annual report. Nor should there be a diminution in the information received by the Commission, since information in the minutes would be identical to that currently provided in the annual shippers' request and complaints report.

The Commission also proposes to reduce the number of filings required by certain other regulations in 46 CFR parts 560 and 572. Again, such revisions should produce cost savings without impairing effective regulation.

A. Revisions to Part 560

Specifically, under subpart G of part 560, Reporting and Record Retention Requirements, the Commission proposes to delete that portion of § 560.702 requiring each conference to file with the Commission annual reports covering shippers' requests and complaints. The remaining portion § 560.702 requiring conference tariffs to contain full instructions as to where and by what method shippers may file their requests and complaints would be moved to § 560.703. However, under the Proposed Rule such shippers' requests and complaints and conference action relative those requests and complaints would now be required to be reported as part of each conference's minutes of meetings filed with the Commission. This proposed reporting change also requires an appropriate revision of the minutes requirements under § 560.703.

In addition, the Proposed Rule:

1. Amends § 560.307(e)(1) to reduce to 10 from 15 the number of copies of an original marine terminal agreement that must accompany an original agreement filed with the Commission.

2. Amends § 560.401(a) to reduce to 10 from 15 the number of copies of an original agreement and original supporting information that must accompany an original agreement and original supporting information filed with the Commission.

3. Deletes § 560.404(c) which requires that a notice of cancellation of an approved agreement be filed not less than 60 days prior to the effective date of cancellation. This regulation is in conflict with § 560.302(b), which requires only a 30-day notice. Upon the termination date of § 560.404(c), the 30-day requirement of § 560.302(b) would apply for the cancellation of agreements.

Section 560.602 is also amended to delete from the comments and protests procedures the reference to Director, Bureau of Domestic Regulation, since agreements are longer filed in that Bureau's successor, the Bureau of Tariffs, Certification and Licensing.

B. Revision to Part 572

In the analogous sections of Part 572—Agreements by Ocean Common Carriers and Other Persons Subject to the Shipping Act of 1984, specifically at Subpart G, Reporting and Record Retention Requirements, the Commission proposes to amend § 572.703 to include section 572.702(a), "Shippers' requests and complaints," and § 572.702(b), "Consultations," thereby eliminating the requirement that each conference file with the Commission annual reports covering all shippers' requests and complaints and shippers' consultations, but requiring the filing of such information as part of agreement minutes.

Similarly, the Commission proposes the deletion of § 572.704, which would eliminate the requirement that each conference file with the Commission quarterly reports indexing documents prepared for discussion at conference meetings. In its place, the Proposed Rule requires that a list of any reports, circulars, notices, statistics, analytical studies or other documents (not otherwise filed with the Commission) that are distributed and used by the members be included as part of the minutes of meetings filed. This proposed reporting change will also necessitate an appropriate revision of the minutes of meetings requirements under § 572.703.

The Proposed Rule also:

1. Amends § 572.309(a)(2)(i) to exempt filed membership changes to voluntary ratemaking agreements having no other anticompetitive authority (e.g., pooling authority or capacity reduction authority) from the Information Form, notice, and waiting period requirements of the 1984 Act, provided that such modifications are filed for informational purposes in the proper format.

2. Amends § 572.401(a)(1) to reduce to 10 from 15 the number of copies of an original agreement that must accompany an original agreement that must be filed with the Commission for review and disposition pursuant to section 6 of the 1984 Act.

3. Amends § 572.402(d) to delete the requirement that each appendix to a filed agreement be accompanied by a separate signature page, since the appendix is an integral part of a filed agreement which requires a signature page.

4. Amends § 572.572.603(a) to reduce to 10 from 15 the number of copies of written comments regarding a filed agreement.

Although the Commission, as an independent regulatory agency, is not subject to Executive Order 12291, dated February 17, 1981, it has nonetheless reviewed the rule in terms of that Order and has determined that this rule is not a "major rule" as defined in Executive Order 12291 because it will not result in:

(1) Annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovations, or on the ability of the States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Federal Maritime Commission certifies, pursuant to section 605(b) of

the Regulatory Flexibility Act, 5 U.S.C. 605(b), that this rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units small government jurisdictions.

The collection of information requirements contained in this rule have been submitted to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511), as amended. Public reporting burden for this amendment is estimated to result in an average reduction of 7½ hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Norman W. Littlejohn, Director, Bureau of Administration, Federal Maritime Commission, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

List of Subjects

46 CFR Part 560

Administrative practice and procedure; Antitrust; Freight; Maritime carriers; Penalties; Rates and fares; Reporting and recordkeeping requirements.

46 CFR Part 572

Administrative practice and procedure, Antitrust, Maritime carriers, Rates and fares, Reporting and recordkeeping requirements.

Therefore, parts 560 and 572 of Title 46 of the Code of Federal Regulations are proposed to be amended as follows:

1. The authority citation for part 560 continues to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 814, 817(a), 820, 821, 833a and 841a.

2. Section 560.307(e)(1) is revised to read as follows:

§ 560.307 Marine terminal agreements—exemption.

* * * * *

(e) * * *

(1) A true copy and 10 additional copies of the filed agreement;

* * * * *

3. The second sentence in § 560.401(a) is revised to read as follows:

§ 560.401 Filing of agreements.

(a) * * *. Such requests shall consist of a true copy and 10 additional copies of the agreement and all supporting information. * * *

§ 564.404 [Amended]

4. Section 560.404(c) is removed.

5. The first sentence in § 560.602(e) is revised to read as follows:

§ 560.602 Comments and protests.

* * * * *

(e) Except as provided in this section and § 560.403, or except, in the case of an unprotested agreement, as the Director, Bureau of Trade Monitoring and Analysis may in his/her discretion initiate, or unless specifically requested in writing by the Commission, with copies to the proponents and persons which have filed protests or comments, no other written or oral communication concerning a pending agreement shall be permitted. * * *

6. Sections 560.702 and 560.703 are amended by revising the title to § 560.702, removing § 560.702(a), redesignating § 560.702(b) as § 560.702(c), adding a new § 560.702(b), redesignating § 560.703 (a), (b), and (c) as § 560.702 (a), (d), and (e) respectively, and reserving § 560.703 to read as follows:

§ 560.702 Filing of minutes—including shippers' requests and complaints.

* * * * *

(b) Each report subject to paragraph (a) of this section shall provide the following information for all shippers' requests and complaints received since the previous such report filed with the Commission:

(1) Date request or complaint was received;

(2) Identity of the person or firm submitting the request or complaint;

(3) Nature of request or complaint, i.e., rate reduction, rate establishment, classification, overcharge, undercharge, measurement, etc.;

(4) If final action was taken, date and nature thereof;

(5) If final action was not taken, an identification of the request or complaint as pending;

(6) If denied, the reason.

* * * * *

§ 560.703 [Reserved]

PART 572—[AMENDED]

7. The authority citation for part 572 continues to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 1701-1707, 1709-1710, 1712, and 1714-1717.

8. Section 572.309(a)(2)(i) is revised to read as follows:

§ 572.309 Miscellaneous modifications to agreements—exemptions.

(a) * * *

(2) * * *

(i) *Article 3*—Parties to the agreement (limited to conference agreements, voluntary ratemaking agreements having no other anticompetitive authority (e.g., pooling authority or capacity reduction authority), and discussion agreements among passenger vessel operating common carriers which are open to all ocean common carriers operating passenger vessels of a class defined in the agreements, which do not contain ratemaking, pooling, joint service, sailing or space chartering authority).

* * * * *

9. Section 572.401(a)(1) is revised to read as follows:

§ 572.401 Filing of agreements.

(a) * * *

(1) A true copy and 10 additional copies of the filed agreement;

* * * * *

10. Section 572.402(d) is revised to read as follows:

§ 572.402 Form of agreements.

* * * * *

(d) Each agreement and/or modification filed will be accompanied by a separate signature page, appended as the last page of the item, which is signed in the original by each of the parties personally or by an authorized representative, indicating immediately below each signature the typewritten full name of the signing party and his or her position, including organizational affiliation.

* * * * *

11. The second sentence in § 572.603(a) is revised to read as follows:

§ 572.603 Comment.

(a) * * *. Such comments will be submitted in an original and ten (10) copies and are not subject to any limitations except the time limits provided in the Federal Register notice.

* * *

* * * * *

§ 572.702 [Removed]

12. Section 572.702 is removed.

§ 572.703 [Redesignated as § 572.702]

13. Section 572.703 is redesignated as § 572.702 and is amended by revising the title, amending the reference to "paragraph (c)" in the first sentence of

paragraph (b) to read "Paragraph (f)", redesignating paragraph (c) as paragraph (f), and adding new paragraphs (c), (d), and (e) to read as follows:

§ 572.702 Filing of minutes—including shippers' requests and complaints, consultations, and other documents.

* * * * *

(c) *Shippers' requests and complaints.* (1) Each report subject to paragraph (b) of this section shall provide the following information for all shippers' requests and complaints received since the previous such report filed with the Commission:

(i) The total number of shippers' and shippers' associations' requests and complaints received;

(ii) The total number which were fully granted;

(iii) The total number which were partially granted; and

(iv) The total number which were denied.

(2) Each report shall also show the total number of requests or complaints which were pending disposition at the start and at the end of the report period.

(3) Each of the totals which are reported to the Commission shall be divided into three categories:

(i) Those involving rates or charges;

(ii) Those involving transportation services; and

(iii) Those involving other matters.

(d) Consultations. (1) Each report subject to paragraph (b) of this section shall provide the following information for all shippers' and shippers' associations' requests for consultations received since the previous such report filed with the Commission:

(i) The total number of shipper and shippers' association requests for consultations; and

(ii) The total number of such consultations.

(2) Each of the totals which are reported to the Commission shall be divided into two categories:

(i) Consultations involving commercial disputes; and

(ii) Consultations involving cooperation with shippers in preventing and eliminating malpractices. (e) *Other documents.* Each agreement required to file minutes pursuant to paragraph (b) of this section shall publish in its minutes a list of all reports, circulars, notices, statistics, analytical studies, or other documents, not otherwise filed with the Commission pursuant to this subpart, which have been distributed to the member lines since the previous such report filed with the Commission, and which are used to reach a final decision on any of the following matters:

* * * * *

§ 572.704 [Removed]

14. Section 572.704 is removed.

§ 572.705 [Redesignated as § 572.703]

15. Section 572.705 is redesignated as § 572.703.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 92-13354 Filed 6-9-92; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[CC Docket 92-77; FCC No. 92-169]

Billed Party Preference for 0+ InterLATA Calls

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission initiated a rulemaking proceeding to consider the merits of an automated "billed party preference" routing methodology for 0+ interLATA payphone traffic and for other types of interLATA traffic. The Commission tentatively concluded that, in concept, billed party preference routing of all 0+ interLATA calls is in the public interest, the Commission seeks further comment on the costs and benefits of billed party preference and how such a system should be implemented. The Commission also seeks comment, under a separate expedited pleading cycle, on proposals to address alleged competitive consequences arising from AT&T's issuance of a proprietary calling card.

DATES: Interested parties may file comments on the Commission's billed party preference proposal on or before July 7, 1992 and reply comments on or before August 6, 1992. Interested parties may file comments on proprietary calling cards on or before June 2, 1992 and reply comments on or before June 17, 1992.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Gary Phillips, Policy and Program Planning Division, Common Carrier Bureau (202) 632-4047.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking, FCC 92-169, adopted April 9, 1992, and released May 8, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 239), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street NW., Washington, DC 20036, (202) 452-1422.

Summary of Notice of Proposed Rulemaking

1. On April 13, 1989, Bell Atlantic filed a petition for rulemaking proposing a new equal access plan for all pay telephones in equal access area. This plan, which it terms "billed party preference," would fundamentally change the routing of 0+ calls. Currently, 0+ calls are sent directly to the operator service provider (OSP) presubscribed to the originating line. Under billed party preference, as proposed by Bell Atlantic and others, 0+ calls would be sent instead to the OSP chosen by the party paying for the call. For example, a collect call would be routed to the called party's OSP. A calling card call would be routed to the interexchange carrier (IXC) that issued the calling card or, if the caller uses a local exchange carrier (LEC) calling card, to the OSP predesignated by the LEC cardholder. A call billed to a third number would be routed to the OSP presubscribed to the third number. In each case, LECs would perform the necessary carrier identification functions at their operator service switch (OSS). Thus, unlike the situation today, in which 0+ interLATA calls are sent directly to the IXC, each 0+ call would be sent first to the LEC OSS for carrier identification functions, and then to the appropriate OSP.

2. The Commission tentatively concluded that, in concept, a nationwide system of billed party preference for all 0+ interLATA calls is in the public interest. More specifically, the Commission tentatively concluded that billed party preference could make operator services more "user-friendly" since callers would be able to make all of their operator-assisted calls on a 0+ basis, and they could do so with the knowledge that their call would be automatically handled by the OSP with which the billed party wishes to do business.

3. The Commission stated that another apparent advantage of billed party preference is that it would focus competition in operator services towards end users. OSPs currently compete for 0+ traffic by obtaining presubscription contracts for public phones. They compete for such contracts by offering commission

payments to payphone providers. Billed party preference would redirect the competitive efforts of OSPs towards providing better services and lower prices to end users, as opposed to paying higher commissions.

4. The Commission also stated that billed party preference might increase parity in the operator services marketplace by giving every IXC the same opportunity to offer customers 0+ dialing, regardless of the size of its customer base and regardless of whether other IXCs use proprietary calling cards. Currently, the presubscription system for public phones tends to favor the OSP—in this case AT&T—with the largest number of customers. That OSP can pay a lower commission rate than other OSPs, yet still offer higher overall commission payments because of the larger amount of commissionable traffic that it carries. Billed party preference could eliminate this disparity.

5. Notwithstanding that billed party preference would appear to offer a number of public interest benefits, the Commission needs more information before it can mandate implementation of billed party preference and determine exactly how this service should be structured. First and foremost, the Commission requests additional information about the costs of a billed party preference system, and how those costs are affected by the scope of billed party preference. Specifically, the Commission seeks further information and comment on the estimated total costs of implementing and operating a billed party preference system for: (a) InterLATA payphone traffic alone; (b) all interLATA public phone traffic, including traffic from hotel rooms and other aggregator locations; (c) all interLATA 0+ traffic from any phone; and (d) all interLATA 0+ and 0− traffic from any phone.

6. Second, concerns have been raised as to whether billed party preference would require callers to provide certain information about their call (such as the calling card number) twice: First to the LEC so that the LEC may identify the OSP that will receive the call, and then again to the OSP so that the OSP can process and bill for the call. It appears that if LECs deploy common channel signaling (SS7) between their OSSs and OSP points of presence, they would be able to pass on the information provided to them for carrier identification purposes to the OSP, thus obviating the need for the caller to repeat that information to the OSP. Moreover, if LECs deploy Automated Alternate Billing Services (AABS), LECs would be able to identify collect and third number calls on an automated basis, thus eliminating the need for the caller to speak with two operators. The Commission seeks comment on: (a) The extent to which callers would have to provide the same information twice or speak with two operators in a billed party preference system; (b) the extent to which this problem would be alleviated by LEC deployment of SS7 and AABS; (c) the cost of deploying these capabilities and how those costs may vary from LEC to LEC; (d) the extent to which independent LECs will either implement SS7 and AABS or otherwise be able to eliminate the "double operator system problem" in their regions; (e) the time it would take to deploy the necessary technology to eliminate this problem; (f) the availability and cost of any OSP technology required for OSPs to receive the necessary information from the LECs; and (g) the possible availability and cost of customer premises equipment that could perform these functions by storing the necessary processing and billing information and then transmitting it to the OSP at the caller's prompting.

7. Third, the Commission seeks comment on the impact billed party preference would have on access times for operator service calls. Specifically, the Commission seeks comment on the observation in the record that access times on 0+ calls could be increased up to four seconds per call, but that the implementation of SS7 and AABS would eliminate this increase. The Commission also asks commenters to address any increase in access time in light of (a) callers saving time in not having to dial access codes, and (b) callers receiving instructions from the LEC during the call set-up period, which could reduce the incidence of call abandonment.

8. Fourth, the Commission seeks comment on the effect billed party preference would have on competition in the provision of payphones and the public interest ramifications of any such impact, given the other benefits and costs of billed party preference. Billed party preference would effectively eliminate OSP commissions to competitive payphone providers on 0+ traffic. On the other hand, the Commission's mechanism to compensate payphone providers for originating access code calls, as well as some other mechanism, might be applied to all operators-assisted calls and therefore provide competitive payphone providers a different means of compensation for originating such calls.

9. Fifth, the Commission seeks comment on whether some or all of the benefits of billed party preference might be obtainable through alternative, less costly technologies rather than the billed party preference system that has been described in this Notice.

10. The Commission also seeks comment on how billed party preference should be implemented if it decides that it is in the public interest. First, the Commission seeks comment on whether it should: (a) Require all LECs to implement this system for such calls, and (b) amend Part 68 of our rules to preclude traffic aggregators and payphone providers from using automatic dialing mechanisms to program their phones to dial around billing party preference on such calls. The Commission tentatively concluded that both would be required to implement a billed party preference system. The Commission also seeks comment on when billed party preference could be implemented by all LECs.

11. Second, the Commission requests comment on the types of calls for which billed party preference should be implemented. In particular, the Commission seeks comment on whether billed party preference should apply to: (a) InterLATA 0+ payphone traffic only; (b) all interLATA 0+ public phone traffic; (c) all interLATA 0+ traffic; or (d) all interLATA 0+ and 0− traffic. The Commission stated that a uniform dialing plan for all 0+ calls would be more readily accepted and understood by callers than a patchwork of different plans for different types of phones. In addition, the Commission seeks comment on whether billed party preference could be applied to calls originating from non-equal access areas, and if so, in what manner.

12. Third, the Commission asks for comment on the process by which a 0+ carrier should be assigned to each telephone line. One possibility would be for each LEC to send a ballot to its subscribers explaining their right to choose a 0+ carrier and setting forth their choices. Customers that did not send in their ballots would be defaulted to their 1+ carrier. Another possibility would be for each LEC simply to notify customers of their right to presubscribe to a 0+ carrier different from their 1+ carrier. Such unbundling would be implemented upon customer request. The Commission seeks comments on these and any other proposals for determining 0+ presubscriptions.

13. Fourth, the Commission seeks comment on how commercial credit cards and foreign-issued calling cards

would be handled in a billed party preference environment The Commission also seeks comment on how LECs would handle calls billed to users in foreign countries.

14. Fifth, the Commission seeks comment on the process by which a secondary OSP might be assigned to each telephone line. Several commenters have proposed that the primary OSP should choose a secondary OSP that would handle traffic originating in areas in which the primary OSP was not available. This proposal, however, would not permit a primary OSP to choose more than one secondary OSP for its traffic. The Commission seeks comment on whether primary OSPs could and should be able to designate different secondary OSPs for different regions of the country, thereby enabling regional OSPs to establish partnership arrangements with one another. The Commission also seeks comment on whether it would be technically and administratively feasible to permit each end user to choose its own secondary OSP or OSPs.

15. In addition to seeking comment on billed party preference, the Commission also seeks comment, under a special expedited pleading cycle, on whether, prior to the implementation of billed party preference, it should require IXCs to share with other IXCs billing and validation data for any calling card usable with 0+ access. AT&T has recently begun issuing new calling cards in the so-called card issuer identification (CIID) format. These calling cards are proprietary, in that AT&T does not provide other OSPs with the data needed to validate them. Consequently, AT&T is the only IXC that can accept calls made with these cards.

16. AT&T contends that there are public interest benefits to its proprietary CIID card. It argues that many consumers assume that if they use an AT&T calling card, they necessarily receive service from AT&T. AT&T claims that even if another OSP identifies itself to the customer before carrying the call, customers using an AT&T card do not always realize that they are not receiving AT&T service and rates.

17. On the other hand, some of AT&T's competitors allege that AT&T's CIID card confers on AT&T a significant and unfair advantage in competing for public phone presubscriptions. In particular, they claim that the inability of OSPs other than AT&T to accept the large number of calls made with this card, coupled with AT&T's efforts to educate CIID cardholders to dial 10288 to avoid the presubscribed OSP when that OSP is not AT&T, substantially decreases the amount of 0+ traffic that OSPs other than AT&T can handle. Consequently, they state, the dissemination of this card by AT&T gives aggregators and premises owners strong incentives to presubscribe their phones to AT&T.

18. It appears that deployment of billed party preference at public phones would eliminate any advantage AT&T derives from its CIID card, since billed party preference would replace presubscription as the basis for routing 0+ traffic. Nevertheless, it appears that billed party preference might not be implemented for some time.

19. Some of AT&T's competitors urge us to take steps in the interim to deny AT&T the ability to derive any competitive advantage from its proprietary calling card. They propose that we do this by requiring all IXCs to share with other IXCs the billing and validation data for any calling card that could be used with 0+ access. Under this proposal, IXCs would have the choice of either sharing billing and validation data for a calling card or restricting the use of the card to access code dialing.

20. The Commission seeks comment on this proposal. In particular, the Commission seeks comment on the public interest costs and benefits of this proposal, and on how, specifically, it would be implemented and would work. For example, the Commission seeks comment on: (1) How and by whom the choice between a proprietary access code card and a nonproprietary 0+ card should be made; (2) how IXCs would distinguish and screen proprietary and nonproprietary card calls; (3) whether carriers should be obligated merely to instruct proprietary cardholders to dial access codes, or whether they should also be required to reject 0+ calls by customers using proprietary calling cards; (4) what information would have to be made available to enable OSPs to carry and bill for nonproprietary 0+ calls; (5) the impact the above-described proposal would have on consumers; and (6) the impact this proposal might have on the costs and benefits of billed party preference or the timeliness with which it could be implemented. The Commission also invites parties to discuss alternative proposals for addressing alleged competitive inequities resulting from AT&T's issuance and dissemination of a proprietary calling card.

21. Pursuant to applicable procedures set forth in § 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on whether the Commission should restrict the use of proprietary calling cards on 0+ calling on or before June 2, 1992 and reply comments on or before June 17, 1992. Interested parties may file comments on the Commission's billed party preference proposal on or before July 7, 1992 and reply comments on or before August 6, 1992. To file formally in this proceeding, you must file an original and five copies of all comments, reply comments, and supporting comments. You should send comments and reply comments to the Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the Dockets Reference Room of the Federal Communications Commission, 1919 M Street NW., Washington, DC 20554. For further information, contact Gary Phillips, Policy and Program Planning Division, Common Carrier Bureau (202) 632-4047.

Ordering Clauses

1. Accordingly, it is ordered that, pursuant to sections 1, 4, 201–205, 218, and 403 of the Communications Act as amended, 47 U.S.C. 151, 154, 201–205, 218, 220, and 403, a notice of proposed rulemaking is hereby provided as explained herein.

2. It is further ordered that, pursuant to § 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, comments on the proposal for restricting the use of proprietary calling cards on 0+ calling shall be filed with the Secretary, Federal Communications Commission, Washington, DC 20554, on or before June 2, 1992 and reply comments shall be filed with the Secretary on or before June 17, 1992.

3. It is further ordered that, pursuant to §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, comments on the billed party preference proposal shall be filed with the Secretary, Federal Communications Commission, Washington, DC 20554, on or before July 7, 1992 and reply comments shall be filed with the Secretary on or before August 6, 1992.

4. It is further ordered that the Petition for Rulemaking filed by Bell Atlantic is granted to the extent indicated herein, and is otherwise denied.

List of Subjects in 47 CFR Chapter 1

Communications common carriers; Long-distance calls.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92–13594 Filed 6–9–92; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 92-118, RM-7667]

Radio Broadcasting Services; Wrightsville, AR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Wrightsville Communications Company, Inc., permittee of Station KYTN(FM), Channel 299A Wrightsville, Arkansas, seeking the substitution of FM Channel 299C2 for Channel 299A and modification of its permit accordingly. Coordinates for this proposal are 34-36-24 and 92-14-17.

Petitioner's modification proposal complies with the provisions of § 1.420(g) of the Commission's Rules. Therefore, we will not accept competing expressions of interest in the use of Channel 299C2 at Wrightsville, Arkansas, or require the petitioner to demonstrate the availability of an additional equivalent class channel.

DATES: Comments must be filed on or before July 27, 1992, and reply comments on or before August 11, 1992.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: James E. Edmundson and Mark Van Bergh, Esqs., Gardner, Carton & Douglas, suite 750N, 1001 Pennsylvania Ave., NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 92-118, adopted May 18, 1992, and released June 4, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st St., NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Acting Chief, Allocations Branch, Policy and Rule Division, Mass Media Bureau.

[FR Doc. 92-13535 Filed 6-9-92; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 90-552; RM-7331]

Radio Broadcasting Services; Monterey, LA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal.

SUMMARY: This document dismisses the petition of Manna Broadcasting Company, Inc., now Joe B. Wilmoth, proposing the allotment of Channel 284A to Monterey, Louisiana, at petitioner's request. See 55 FR 48870, November 23, 1990. With this action, this proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau, (202) 634-6530.

SUPPLMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90-552, adopted May 18, 1992, and released June 4, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-13536 Filed 6-9-92; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 625

[Docket No. 920543-2143]

RIN 0648-AE21

Summer Flounder Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NOAA issues this proposed rule that would implement conservation and management measures as prescribed in Amendment 2 to the Fishery Management Plan for the Summer Flounder Fishery (FMP). The chief objective of Amendment 2 is to reduce the fishing mortality rate enough to rebuild the severely depleted stock of summer flounder. Management measures contained in Amendment 2 include: (1) Annual quotas for the commercial fishery allocated on a state-by-state basis; (2) minimum mesh size for trawl gear; (3) a seasonal restriction for the recreational fishery; (4) bag limits on a trip basis for the recreational fishery; (5) minimum fish size requirements for the commercial and recreational fisheries; (6) a 5-year moratorium on entry into the commercial fishery; (7) permits for dealers wishing to purchase summer flounder; (8) mandatory logbook reporting by permitted dealers (weekly); (9) a prohibition on sale of summer flounder caught by the recreational fishery; and (10) authorization to collect application fees for charter, party, and commercial vessel permits and dealer permits. Amendment 2 also contains management measures designed to protect endangered and threatened sea turtles, especially to reduce the likelihood of incidental catch or injury to sea turtles in the winter trawl fishery for summer flounder.

DATES: Comments on the proposed rule must be received on or before July 20, 1992.

ADDRESSES: Comments on the proposed rule, Amendment 2, or supporting documents should be sent to Mr. Richard Roe, Regional Director, National marine Fisheries Service, Northeast Regional Office, One Blackburn Street, Gloucester, MA 01930. Mark the outside envelope "Comments on Summer Flounder Plan".

Comments regarding the burden-hour estimates or any other aspect of the

collection-of-information requirements contained in this proposed rule should be sent to the Northeast Regional Director (address listed above) and the Office of Management and Budget (Attention NOAA Desk Officer), Washington, DC 20503.

Copies of Amendment 2, its regulatory impact review (RIR) and the initial regulatory flexibility analysis (IRFA) contained within the RIR, and the final environmental impact statement (FEIS) are available from John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115 Federal Building, 300 S. New Street, Dover, DE 19901–6790.

FOR FURTHER INFORMATION CONTACT: Richard G. Seamans, Jr., Senior Resource Policy Analyst, (508) 281–9244.

SUPPLEMENTARY INFORMATION:

Background

Amendment 2 was prepared by the Mid-Atlantic Fishery Management Council (Council) in consultation with the Atlantic States Marine Fisheries Commission (ASMFC) and the New England and South Atlantic Fishery Management Councils. A notice of a draft environmental impact statement (DEIS) was published on March 27, 1992 (57 FR 10667). The public comment period for the DEIS ended on April 10, 1992. A notice of availability for Amendment 2 was published in the **Federal Register** on May 8, 1992 (57 FR 19874). One management measure in Amendment 2 was disapproved by the Secretary of Commerce on May 7, 1992 during preliminary review under section 304(a) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), 16 U.S.C. section 1854; this measure proposed to require that the Regional Director prohibit fishing for summer flounder in the exclusive economic zone by fishermen of any state not in compliance with the FMP.

Amendment 2 is designed to revise management of the summer flounder (*Paralichthys dentatus*) fishery pursuant to the Magnuson Fishery Conservation and Management Act (Magnuson Act), as amended. The management unit remains unchanged and is summer flounder in U.S. waters in the western Atlanta Ocean from the southern border of North Carolina northward to the U.S.-Canadian border. The objectives of the FMP are:

1. Reduce fishing mortality in the summer flounder fishery to assure that overfishing does not occur.
2. Reduce fishing mortality on immature summer flounder to increase spawning stock biomass.
3. Improve the yield from the fishery.
4. Promote compatible management regulations between state and Federal jurisdictions.
5. Promote uniform and effective enforcement of regulations.
6. Minimize regulations to achieve the management objectives stated above.

Amendment 2 is a joint effort in planning with the ASMFC, its member states and the Council. It establishes a management system to reduce the current fishing effort in this severely overfished fishery, and stabilize the fishery at its maximized harvest level after 1995. Measures to accomplish these target levels are imposed on both the commercial and the recreational sectors of the fishery in a cooperative manner between the states and the Federal Government. All member states of the ASMFC voted in favor of a virtually identical ASMFC version of this Amendment.

Summer flounder are overexploited. The best currently published indicators, on which the Amendment is based, show that instantaneous fishing mortality (F) is at least 1.4, while the rate that maximizes the harvest (F_{max}) is 0.23. Thus, fishing mortality is six times the rate that would produce the maximum yield per recruit. The instantaneous fishing mortality rate is easily translated into an annual survival estimate. With a fishing mortality rate of 1.4, only about 20 percent of all summer flounder that are alive now will survive 1 year. The level of survival that corresponds to the F_{max} rate is 65 percent. Obviously, gains in long-term yield from the fishery and increases in stock size could be realized by significantly reducing fishing mortality from current levels. More important, the current stock condition of summer flounder indicates that significant and timely reductions in fishing mortality are needed to avoid stock collapse. Overfishing is defined in the FMP as fishing in excess of the F_{max} level (adopted by the Council and approved by NMFS in Amendment 1).

Both commercial and recreational catches of summer flounder are now comprised primarily of 0- to 2-year-old fish, because of high rates of fishing mortality. Females of this species have previously been known to live up to 20 years, and males have been captured that were as old as 7 years, yet older and larger fish are now infrequent in the landings. This indicates a severely compressed age composition of the summer flounder stock. Such age class compression poses a great risk to recruitment because very few older, more fecund spawning adults exist in the population and nearly all of the new recruits are being spawned by a small number of females, which are also less fecund, thereby reducing the likelihood of any strong year classes.

The Mid-Atlantic mixed species trawl fishery, which relies principally on summer flounder, scup, and black sea bass, also harvests significant quantities of *Loligo* squid, winter flounder, witch flounder, yellowtail flounder, and other species either as bycatch or in directed fisheries. Many of these species are also principal components of the southern New England trawl fisheries since stock migrations occur between the Mid-Atlantic Bright and this area.

Generally, fishing activity follows this species as it makes annual migrations from south to north, and back to the south, and from offshore to inshore waters, and back offshore. Fishing effort is concentrated northerly and inshore in summer when a wide range of vessels have access to the stocks. In winter, effort is concentrated southerly and offshore, primarily with larger vessels. Although the majority of landings (96 percent) are taken by otter trawls, summer flounder are landed by other types of fishing gear, including: Pound nets, crab trawls, shrimp trawls, gill nets, and scallop dredges.

Proposed Management Measures

The commercial sector would be constrained through the use of state commercial quotas based on a state's share of the overall commercial landings over the 10-year time period of 1980 through 1989. The quota would apply throughout the management unit, that is, in both state and Federal waters. All commercial landings in a state would count toward that state's quota. When a state's quota has been caught, the amendment contemplates that the state would prohibit fishing for and/or landing summer flounder in that state.

NMFS would monitor the fishery and inform each state of its landings relative to its quota. It would be the responsibility of each state to assure that its quota is not exceeded. Each state would have to close its waters to commercial fishing for summer flounder when its quota is reached and prohibit landing by commercial vessels. Also, each state would have to submit to the Council and Regional Director a plan setting forth the means by which it would manage the quota, size limit, and mesh regulation. Each state's plan would be reviewed by Summer Flounder Monitoring Committee.

Fishing effort in the commercial sector would be reduced through the establishment of a 5-year permit moratorium of vessels, other than party or charter boats, into the commercial

sector. However, the initial eligibility requirements would be broad. Thus the initial impact of the moratorium would be minimal but would increase over the 5-year period of the moratorium. Vessels that landed and sold summer flounder between January 26, 1985, and January 26, 1990, would qualify for a moratorium permit. Vessels that were being constructed and/or rerigged for the summer flounder fishery during this period, providing that they caught and sold summer flounder before the final rule implementing this Amendment is effective, would also be eligible for the annual moratorium permit. However to take advantage of the eligibility criteria, a person would have to apply to have his vessel permitted before the expiration of 12 months from the date of the final rule.

Owners or operators of vessels permitted under the moratorium would be the only individuals who could sell their catch, and they could sell only to licensed dealers. Party and charter boats with a moratorium permit carrying passengers for hire or with crews in excess of five or three, respectively, are subject to the possession limits.

A recreational vessel, other than party or charter boat (vessel for hire), would be exempt from the permitting requirements if it catches, per trip, no more than the recreational possession limit of summer flounder multiplied by the number of persons on board.

Moratorium permits would not be restricted to otter trawlers. Scallopers or any other vessels that meet the eligibility criteria could obtain a moratorium permit. Otter trawlers would, however, be subjected to certain gear restrictions. They would have to have a minimum mesh size of 5½ inches (14.0 cm) in the terminal 75 meshes of the net (or the last one-third of the net if it has less than 75 meshes) if the owner or operator wanted to catch and retain more than 100 pounds (45.4 kg) of summer flounder, subject to three exceptions. The mesh requirement would not apply to using a fly net, or a pelagic net meeting specified mesh requirements, or to vessels issued an exemption permit to fish for a designated period in a designated area off southern New England, called the "Exemption Area."

Vessels fishing with 5½ inch (14.0 cm) mesh, or with exempted gear, could not have smaller mesh nets or netting on board. Vessels with an exemption permit could fish with small mesh, but could not fish outside the exemption area during the period the permit is in force. Vessels fishing with small mesh could have 100 pounds (45.4 kg) or less of summer flounder on board, provided the fish are stored in a single box easily accessible for inspection by an authorized officer.

Vessels with a moratorium permit could be replaced only if they involuntarily left the fishery (e.g., sank) not due to a lack of reasonable maintenance. The replacement vessel would have to be of the same gross registered tonnage and length, or smaller. If an individual owns two or more vessels that involuntarily leave the fishery, they could not be replaced with one larger vessel. If a vessel with a moratorium permit fails to land summer flounder for 52 consecutive weeks, it would be considered retired from the fishery and its permit would expire.

Recreational fishermen, commercial vessels not eligible for a moratorium permit, and party and charter boats with a moratorium permit but carrying passengers for hire or carrying more than three crew members if a charter boat or more than five crew members if a party boat would be subject to the recreational bag limit (six fish per person on board in the first year of implementation). Also, these categories of fishermen could retain the possession limit only during the recreational open season (May 15 to September 30, 1993). These fishermen could not sell their catch. They could fillet their catch at sea, but any part retained would have to meet the minimum size requirement of 14 inches (35.6 cm). This filleting provision would also apply to commercial vessels fishing with a moratorium permit. However, the minimum size for any part retained would be 13 inches (33 cm) for commercial vessels. The size differential corresponds to the escapement factor of 5½ inch mesh for commercial trawling gear.

Any person receiving summer flounder for commercial purposes other than transport from a vessel issued a moratorium permit would have to have a dealer permit. A state dealer permit would have to be recognized as meeting this requirement in certain circumstances to reduce costs and avoid unnecessary duplication. Dealers could purchase summer flounder only from vessels issued a moratorium permit.

To keep track of the commercial catch in order to determine when a commercial quota will be harvested, dealers and fishermen would be required to submit reports. Dealers would have to submit these reports on a weekly and annual basis. Owners and operators of a vessel with a moratorium permit would have to submit their daily fishing logs on a monthly basis and provide an annual report. Owners and operators of vessels with a party and charter boat permit would have to submit a monthly report even if no fishing trips were made.

To defray the administrative costs of processing vessel and dealer permits, authorization would be provided to the Regional Director to charge a fee not to exceed actual processing costs. This cost is estimated to be approximately $20 to $35 per applications.

There would be an annual review to determine if the existing measures are adequate to meet the reduced fishing mortality target levels. If these measures are not adequate, modification could be made to any of the management measures imposed on the commercial and recreational fisheries. Also, additional measures could be imposed on other categories of vessels issued a moratorium permit, such as scallopers, in order to reduce the mortality of summer flounder.

In order to gather more specific data on the summer flounder resources, permitted vessels could be required to take a sea sampler. Notice of such a requirement would be provided to the vessel owner who in turn would provide notice of when the vessel will leave on its next fishing trip. The sea sampler requirement could be waived if the vessel is unsafe or not equipped to carry a sea sampler on board. The cost of carrying a sea sampler on board would be borne by the vessel owner.

Due to the known interaction of the summer flounder fishery with populations of endangered and threatened species of sea turtles, Amendment 2 includes several management measures to promote sea turtle conservation in a circumscribed area off North Carolina. These measures are almost identical to those contained in an emergency interim rule that was originally effective from December 2, 1991, through March 5, 1992 (56 FR 63685; December 5, 1991), and extended from March 6, 1992, through June 3, 1992 (57 FR 8582; March 11, 1992). Proposed measures in Amendment 2 that are the same as those in the emergency rule and are designed to promote sea turtle conservation include: (1) Reference to the proper methods for sea turtle handling and resuscitation by summer flounder fishermen; (2) establishment of a monitoring and assessment program in cooperation with the State of North Carolina to measure the incidental take of sea turtles in the summer flounder fishery; (3) restricted tow-times for trawlers operating in a designated area off North Carolina; (4) authority for the Regional Director to revise tow-time requirements for up to one year; (5) authority for the Regional Director to

close the summer flounder fishery if a determination is made that such a closure is necessary to avoid jeopardizing continued existence of any species listed under the Endangered Species Act (ESA); (6) authority for the Regional Director to reopen the summer flounder fishery if sufficient conservation measures for sea turtles are added to ensure that operation of the fishery is not likely to jeopardize the continued existence of any species listed under the ESA; (7) authority for the Regional Director to require the use of turtle excluder devices; (8) authority for the Regional Director to require observers on all or a certain portion of vessels in the summer flounder fishery to gather data on incidental capture of sea turtles; and (9) authority for the Regional Director to allow experimental projects to measure incidental capture rates to monitor turtle abundance, or to test alternative gear. Amendment 2 contains a detailed description of the observer program in the event that the Regional Director requires observers as listed under item (8) above. This detailed description of the observer program was not included in the emergency rule.

Proposed Changes to Regulatory Text

Due to the extensive amendments required to regulations at 50 CFR part 625 if Amendment 2 is approved by the Secretary, that part would be revised in its entirety. Sections 625.5, 625.20, 625.21, 625.22, 625.24, and 625.25 are currently reserved; headings would be changed and text would be added to these sections if Amendment 2 is approved. Sections 625.26 and 625.27 would be added, and §§ 625.1, 625.2, 625.4, 625.6, 625.7, 625.8, 625.9, 625.10, and 625.23 would be substantially revised if amendment 2 is approved. Section 625.3 is the only section that would remain the same if Amendment 2 is approved.

Classification

Section 304(a)(1)(D)(ii) of the Magnuson Act, as amended, requires the Secretary of Commerce (Secretary) to publish regulations proposed by a Council within 15 days of the receipt of the FMP or FMP amendment and its proposed regulations. At this time the Secretary has not determined that the remaining provisions of the FMP amendment that this rule would implement are consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making that determination, will take into account the information, views, and comments received during the comment period.

The Council prepared an FEIS for Amendment 2 describing the possible impacts on the environment as a result of this rule. A copy of the FEIS may be obtained from the Council (see **ADDRESSES**) as soon as a notice of availability of the FEIS is published in the **Federal Register**.

The Assistant Administrator for Fisheries, NOAA, has initially determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under E.O. 12291. This determination is based on the RIR, which demonstrates negative net short-term impacts, but positive long-term economic benefits to the fishermen under the proposed management measures. A copy of this RIR may be obtained from the Council (see **ADDRESSES**).

The proposed rule is exempt from the procedures of E.O. 12291 under section 8(a)(2) of that order. Deadlines imposed under the Magnuson Act, as amended, require the Secretary to publish this proposed rule 15 days after its receipt. The proposed rule is being reported to the Director, Office of Management and Budget, with an explanation of why it is not possible to follow the procedures of the order.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, will not be a significant economic impact on a substantial number of small entities because of the reasons set forth in the RIR prepared by the Council, a copy of which may be obtained from the Council (see **ADDRESSES**). The proposed management measures will have some negative impact on small entities; however, it will be moderated by the fact that summer flounder is only one component of a mixed-species fishery and participants will be able to catch other species. This impact is clearly preferable to the impact of continued fishing without enactment of the conservation program proposed in Amendment 2. Existing summer flounder management measures have not been sufficient to conserve the resource and the stock is over exploited. Stock abundance has been reduced to less than 20 percent of the level of the late 1970's and commercial landings in 1989 were the lowest in the past 15 years. Continued fishing under existing regulations is likely to lead to stock collapse and the loss of substantial income from the summer flounder fishery for the foreseeable future.

The Assistant Administrator has initially determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal management programs of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and North Carolina.

The proposed rule contains six new collection-of-information requirements and revises two existing requirements subject to the Paperwork Reduction Act. A request to collect this information has been submitted to the Office of Management and Budget for approval. The public's reporting burderns for these collection-of-information requirements are indicated in the parentheses in the following statements and include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection-of-information requirements.

The new reporting requirements are:

(1) Dealer permits, Office of Management and Budget (OMB) #0648–0202 (5 minutes/response);

(2) Small-mesh exemption permits, OMB #0648–0202 (5 minutes/response);

(3) Notice requirements for sea sampling trips, OMB #0648–0202 (2 minutes/response);

(4) Vessel logbooks for commercial fishing vessels and charter/party vessels (5 minutes/response);

(5) Annual dealer reports, OMB #0648–0229 (10 minutes/response); and

(6) Annual vessel characteristics reports (5 minutes/response).

Revisions to the existing requirements are:

(1) Moratorium permits (OMB #0648–0202) will be issued to vessels with documented history of participation in the fishery—appeal of denied permits will require written submission (30 minutes/response); and

(2) Dealer purchase reports, which were previously voluntary (OMB #0648–0229), will be mandatory (2 minutes/response).

Send comments regarding these burden-hour estimates or any other aspect of these collection-of-information requirements, including suggestions for reducing the burden hours, to Richard Roe, NMFS, and to the Office of Management and Budget (Attention NOAA Desk Officer) (see **ADDRESSES**).

This proposed rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

A Biological Opinion regarding the implementation of the FMP was issued on August 2, 1988, pursuant to section 7 of the Endangered Species Act. The

opinion considered the impacts of the fishery and related management activities. Takes of endangered and threatened sea turtles in the fishery were determined to occur in some areas and years, but were felt to be below levels that would jeopardize the continued existence of any endangered populations.

The fishery continued without restruction, and between November 26, and December 7, 1990, 54 sea turtles, including at least 8 endangered Kemp's ridleys (*Lepidochelys kempi*), stranded on North Carolina beaches. Consultation was reinitiated due to new information collected during the stranding event and subsequent experimental trawls. A second Biological Opinion, issued on November 15, 1991, concluded that continued unrestricted operation of the summer flounder fishery in waters off North Carolina and southern Virginia would jeopardize the continued existence of the endangered Kemp's ridley population. Reasonable and prudent alternatives were given which included requirements for vessels trawling for summery flounder to limit tow times to 75 minutes or use NMFS-approved turtle excluder devices in waters within 10 miles of the North Carolina and southern Virginia coasts. Implementation of these alternatives is necessary to allow fishing activities to continue. This rule would enable the Regional Director to take actions consistent with the reasonable and prudent alternatives. Copies of these biological opinions are available from the Regional Director (see **ADDRESSES**).

List of Subjects in 50 CFR Part 625

Fisheries, Reporting and recordkeeping requirements.

Dated: June 5, 1992.

David S. Crestin,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 625 is proposed to be revised to read as follows:

PART 625—SUMMER FLOUNDER FISHERY

Subpart A—General Provisions

Sec.

Subpart B—Management Measures

Authority: 16 U.S.C. 1801 *et seq.*

Subpart A—General Provisions

§ 625.1 Purpose and scope.

The regulations in this part implement the Fishery Management Plan for the Summer Flounder Fishery (FMP), which was prepared and adopted by the Mid-Atlantic Fishery Management Council in cooperation with the Atlantic States Marine Fisheries Commission and the New England and South Atlantic Fishery Management Councils. These regulations govern the conservation and management of summer flounder.

§ 625.2 Definitions.

In addition to the definitions in the Magnuson Act and in § 620.2 of this chapter, the terms used in this part have the following meanings:

Being rerigged means physical alteration of the vessel or its gear had begun to transform the vessel into one capable of fishing commercially for summer flounder.

Charter or party boat means any vessel that carries passengers for hire to engage in fishing.

Commission means the Atlantic States Marine Fisheries Commission.

Council means the Mid-Atlantic Fishery Management Council.

Dealer means any person who receives summer flounder for a commercial purpose from the owner or operator of a vessel issued a moratorium permit under § 625.4 for other than solely for transport.

Fishery Management Plan (FMP) means the Fishery Management Plan for the Summer Flounder Fishery and any amendments thereto.

Fishing commercially means retaining summer flounder in excess of the possession limit specified in section 625.25.

Fishing trip means a period of time during which fishing is conducted, beginning when the vessel leaves port and ending when the vessel returns to port.

Regional Director means the Director, Northeast Region, NMFS, 1 Blackburn Drive, Gloucester, MA 01930, telephone 508–281–9243, or a designee.

Substantially similar harvesting capacity means the same Gross Registered Tonnage (GRT) and vessel registered length.

Summer flounder means the species *Paralichthys dentatus*.

Summer Flounder Monitoring Committee means a committee made up of staff representatives of the Mid-Atlantic, New England, and South Atlantic Fishery Management Councils, the Northeast Regional Office of NMFS, the Northeast Fisheries Science Center, the Southeast Fisheries Science Center and Commission representatives. The Council Executive Director or his designee chairs the Committee.

Total length (TL) means the distance from the tip of the head to the tip of the tail (caudal fin) while the fish is lying on its side normally extended.

Under construction means that the keel has been laid.

Vessel registered length means that registered length specified on U.S. Coast Guard documentation or state registration if the state registered length is verified by a NMFS authorized official.

§ 625.3 Relation to other laws.

(a) The relation of this part to other laws is set forth in §620.3 of this chapter and paragraph (B) of this section.

(b) Additional regulations governing fishing for summer flounder by foreign vessels in the EEZ are set forth in 50 CFR part 611, subparts A and C.

§ 625.4 Vessel permits.

(a) *General* (1) *Requirement.* Subject to the eligibility requirements specified in paragraphs (b) and (c) of this section, the owner of a vessel of the United States, including a party or charter vessel, must obtain a permit issued under this part to fish for and regain summer flounder in the EEZ.

(2) *Exemption.* Any vessel other than a party or charter boat that observes the possession limit in § 625.25 is exempt from the permit requirement.

(3) *Condition.* Vessel owners who apply for a fishing vessel permit under this section must agree as a condition of the permit that the vessel's fishing, catch and pertinent gear (without regard to whether such fishing occurs in the EEZ, or landward of the EEZ, and without regard to where such fish or gear are possessed, taken or landed) will be subject to all requirements of this part. All such fishing, catch and gear will remain subject to all applicable state requirements. If a requirement of this part and a management measure required by state law differ, any vessel owner permitted to fish in the EEZ must comply with the more restrictive requirement.

(b) *Moratorium permit* (effective through 1997).

(1) A vessel is eligible to receive a permit to fish for and retain summer flounder in excess of the possession limit in § 625.5 in the EEZ if it meets any of the following criteria:

(i) The owner or operator of the vessel landed and sold summer flounder between January 26, 1985, and January 26, 1990; or

(ii) The vessel was under construction for, or was being rerigged for, use in the directed fishery for summer flounder on January 26, 1990, provided the vessel landed summer flounder for sale prior to implementation of the final regulations implementing the FMP; or

(iii) The vessel is replacing a vessel of substantially similar harvesting capacity that involuntarily left the summer flounder fishery during the moratorium, and both the entering and replaced vessels are owned by the same person. Vessel permits issued to vessels that involuntarily leave the fishery may not be combined to create larger replacement vessels.

(iv) Vessels that are judged unseaworthy by the Coast Guard for reasons other than lack of maintenance may be replaced by a vessel of substantially similar harvesting capacity.

(v) If there is no further amendment of this section, the above restrictions on eligibility to apply for and receive a moratorium permit expire after 1997.

(2) *Restriction.* The permit specified in paragraph (b)(1) of this section may not be applied for more than 12 months following either the effective date of the final regulations or the events specified under paragraphs (h)(1) and (2) of this section. This section does not affect annual permit renewals.

(c) *Party and charter boat permit.* Any party or charter boat is eligible for a permit to fish, other than a moratorium permit, if it is carrying passengers for hire, and is then subject to the possession limits specified in §625.25.

(d) *Permit application.* (1) An application for a permit under this section must be submitted and signed by the owner of the vessel on an appropriate form obtained from the Regional Director at least 30 days prior to the date on which the applicant desires to have the permit made effective. The Regional Director will notify the applicant of any deficiency in the application. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned. Applicants for moratorium permits shall provide information with the application sufficient for the Regional Director to determine if the vessel meets the eligibility requirements. Dealer weighout forms signed by the dealer and notarized statements from marine architects or surveyors or shipyard officials will be considered acceptable forms of proof.

(2) *Permit information.* An applicant must provide all the following information:

(i) The name, mailing address including ZIP code, and telephone number of the owner and master of the vessel;

(ii) The name of the vessel;

(iii) The vessel's U.S. Coast Guard documentation number or the vessel's state registration number for a vessel not required to be documented under title 46 of the U.S. Code;

(iv) Home port and principal state of landing, gross tonnage, radio call sign, and registered length of the vessel;

(v) Engine horsepower of the vessel and the year the vessel was built;

(vi) Type of construction, type of propulsion, navigational aids (e.g., Loran C), type of onboard computer, and type of echo sounder of the vessel;

(vii) Permit number of any current or previous Federal fishery permit issued to the vessel;

(viii) Approximate fish hold capacity of the vesel (to the nearest 100 lbs. or 45.4 kg);

(ix) Type and quantity of fishing gear used by the vessel;

(x) Average size of the crew, including the captain, which may be stated in terms of a normal range;

(xi) Directed fishery or fisheries;

(xii) Quantity of summer flounder landed (in pounds) during the calendar year prior to the one for which the permit is being applied.

(xiii) Average crew share by percentage;

(xiv) Number of passengers the vessel is licensed to carry (party and charter boats); and

(xv) Any other information concerning vessel characteristics requested by the Regional Director.

(3) *Change in permit information.* Any change in the information specified in paragraph (d)(2) of this section must be submitted by the applicant in writing to the Regional Director within 15 days of the change.

(e) *Fees.* The Regional Director may charge a fee to recover administrative expenses of issuing a permit required under paragraphs (b) and (c) of this section. The amount of the fee is calculated in accordance with the procedures of the NOAA Finance Handbook for determining administrative costs of each special product or service. The fee may not exceed such costs and is specified with each application form. The appropriate fee must accompany each application. Failure to pay the fee will preclude issuance of the permit.

(f) *Issuance.* (1) The Regional Director will issue a permit at any time during the fishing year to an applicant if:

(i) The application is complete; and

(ii) The applicant has complied with all applicable reporting requirements of § 625.6 during the 12 months immediately preceding the application.

(2) Upon receipt of an incomplete application, or an application from a person who has not complied with all applicable reporting requirements of § 625.6 during the 12 months immediately preceding the application, the Regional Director will notify the applicant of the deficiency. If the applicant fails to correct the deficiency within 30 days of the Regional Director's notification, the application will be considered abandoned.

(g) *Appeal of denial of permit.* (1) Any applicant denied a moratorium permit may appeal to the Regional Director within 30 days of the notice of denial. Any such appeal shall be in writing. The only ground for appeal is that the Regional Director erred in concluding that the vessel did not meet the criteria in paragraph (b) (1) of this section. The appeal shall set forth the basis for the applicant's belief that the Regional Director erred in his decision.

(2) The appeal may be presented, at the option of the applicant, at a hearing before an officer appointed by the Regional Director.

(3) The decision on the appeal by the Regional Director is the final decision of the Department of Commerce.

(h) *Expiration.* Except as provided in paragraph (b)(1)(iii) of this section, a permit expires:

(1) When the owner or operator retires the vessel from the fishery;

(2) When the vessel fails to land any summer flounder for 52 consecutive weeks; or

(3) On December 31 of each year; or

(4) When the ownership of the vessel changes; however, the Regional Director may authorize the continuation of a moratorium permit for the summer flounder fishery if the new owner requests. Applications for permit continuations must be addressed to the Regional Director.

(i) *Duration.* A permit will continue in effect until December 31 of each year, unless it is revoked, suspended, or modified under 15 CFR part 904, or otherwise expires, or the applicant has failed to report any change in the information on the permit application to the Regional Director.

(j) *Alteration.* No person may alter, erase, or mutilate any permit. Any permit that has been altered, erased, or mutilated is invalid.

(k) *Replacement.* Replacement permits may be issued by the Regional Director when requested in writing by the owner or operator, stating the need for replacement, the name of the vessel and the fishing permit number assigned. An application for a replacement permit will not be considered a new application. The fee for a replacement permit shall be the same as for an initial permit.

(l) *Transfer.* Permits issued under this part are not transferable or assignable. A permit will be valid only for the fishing vessel and owner for which it is issued.

(m) *Display.* The permit must be carried, at all times, on board the vessel for which it is issued, and must be maintained in legible condition. The permit shall be subject to inspection upon request by any authorized official.

(n) *Suspension and revocation.* Subpart D of 15 CFR part 904 (Civil Procedures) governs the imposition of enforcement-related sanctions against a permit issued under this part.

(o) *Exemption permits.* Owners or operators of vessels seeking an exemption from the minimum mesh-size requirement under the provisions of § 625.24(a)(1)(i) must apply to the Regional Director under paragraph (d) of this section at least 7 days prior to the date they wish the permit to become effective. The applicant shall mark "Exemption Permit Request" on the permit application at the top. A permit issued under this paragraph does not meet the requirements of paragraph (a) of this section but is subject to the other provisions of this section. Persons issued an exemption permit must surrender it to the Regional Director at least 1 day prior to the date they wish to fish not subject to the terms of the exemption specified in § 625.24(a)(1). The Regional Director may impose additional procedural requirements by publication of a notice or rule in the Federal Register.

§ 625.5 Dealer permit.

(a) *General.* Any dealer must have a permit issued under this section. A valid dealer permit issued by a state may meet this requirement if it contains substantially the same information required in paragraph (b) of this section and a copy of it is forwarded to the Regional Director by the appropriate state. The Regional Director will notify the applicant of the acceptability of that person's state dealer permit.

(b) *Permit application.* (1) An applicant must apply for a dealer permit on a form provided by the Regional Director. The application must be signed by the applicant and submitted to the Regional Director at least 30 days before the date upon which the applicant desires to have the permit made effective. Applications must contain the name, principal place of business, mailing address and telephone number of the applicant. The Regional Director will notify the applicant of any deficiency in the application. If the applicant fails to correct the deficiency within 15 days following the date of notification, the application will be considered abandoned. As a condition of the permit, the applicant agrees to submit all the information required under § 625.6 (a) before the permit may be made effective.

(2) *Change in permit information.* Any change in the information specified in paragraph (b)(1) of this section must be submitted by the applicant in writing to the Regional Director within 15 days of the change.

(3) *Issuance.* Except as provided in subpart D of 15 CFR part 904, the Regional Director will issue a permit within 30 days of the receipt of a completed application.

(4) *Expiration.* A permit expires on December 31 of each year or if ownership of the business changes.

(5) *Duration.* Any permit issued under this section remains valid until it is revoked, suspended or modified under 15 CFR Part 904, or otherwise expires, or ownership changes, or the applicant has failed to report any change in the information on the permit application to the Regional Director.

(6) *Alteration.* Any permit that is altered, erased , or mutilated is invalid.

(7) *Replacement.* The Regional Director may issue replacement permits for lost permits. Any application for a replacement permit shall not be considered a new permit.

(8) *Transfer.* A permit is not transferable or assignable. It is valid only for the person to whom it is issued.

(9) *Display.* The permit must be displayed for inspection upon request by an authorized officer or any employee or NMFS designated by the Regional Director.

(10) *Suspension and revocation.* The Administrator may suspend, revoke, or modify, any permit issued or sought under this section. Procedures governing permit enforcement-related sanctions or denials are found at subpart D of 15 CFR part 904.

(11) *Fees.* The Regional Director may charge a fee to recover administrative expenses of issuing a permit required under paragraph (b) of this section. The amount of the fee is calculated in accordance with the procedures of the NOAA Finance Handbook for determining the administrative costs of each special product or service. The fee may not exceed such costs and is specified with each application form. The appropriate fee must accompany each application. Failure to pay the fee will preclude issuance of the permit.

§ 625.6 Recordkeeping and reporting requirements.

(a) *Dealers (1) Weekly report.* Dealers shall provide at least the following information to the Regional Director on a weekly basis, on forms supplied by the Regional Director:

(i) Name and mailing address of dealer;

(ii) Name and permit number of the vessel from which summer flounder are landed or received;

(iii) Dates of purchases;

(iv) Pounds of summer flounder purchased;

(v) Price per pound;

(vi) Pounds purchased of all other species landed by the vessel landing summer flounder; and

(vii) Any additional information the Regional Director determines is necessary for the orderly management of the summer flounder resource.

(2) *Annual report.* All persons required to submit reports under paragraph (a)(1) of this section shall also provide the following information to the Regional Director on an annual basis, on forms supplied by the Regional Director.

(i) Number of dealer employees during each month of the year just ended;

(ii) Number of employees engaged in production of summer flounder, during each month of the year just ended;

(iii) Capacity to process summer flounder; and

(iv) An estimate, for the next year, of the capacities described in paragraph (a)(2)(iii) of this section. If the capacities described in paragraph (a)(2)(iii) of this section change more than 10 percent during any year, the processor shall notify the Regional Director within 30 days of the change in capacity.

(3) *Inspection.* The owner or operator shall make the logbook available for inspection by an authorized officer, or by an employee of NMFS designated by the Regional Director to make such inspections.

(4) *Record retention.* For one year after the date of the last entry in the log, the owner or operator shall retain each logbook at the owner's or operator's principal place of business.

(5) *At-sea activities.* All persons purchasing, receiving, or processing any summer flounder at sea for transport to any port of the United States must submit information identical to that required by paragraphs (a) (1) and (2) of this section and provide those reports to the Regional Director on the same frequency basis.

(b) *Owners and Operators of vessels issued a moratorium permit*—(1) *Daily fishing log.* The owner or operator of any vessel issued a moratorium permit shall maintain, on board the vessel, an accurate daily fishing log for each fishing trip, on forms supplied by the Regional Director, showing at least:

(i) Name and permit number of the vessel;

(ii) Total amount in pounds of each species taken;

(iii) Date(s) caught;

(iv) Time at sea;

(v) Duration of fishing time;

(vi) Number of tows;

(vii) Area fished;

(viii) Crew size;

(ix) Landing port;

(x) Date sold; and

(xi) Buyer.

(2) *When to fill in log.* To the extent possible, owners or operators shall fill out such logbooks before landing any summer flounder at the end of any fishing trip. All logbook information required in paragraph (b)(1) of this section must be filled in for each fishing trip before starting the next fishing trip.

(3) *Inspection.* The owner or operator shall make the logbook available for inspection by an authorized officer, or by an employee of NMFS designated by the Regional Director to make such inspections, at any time during or after a trip.

(4) *Record retention.* For 1 year after the date of the last entry in the log, the owner or operator shall retain each logbook at the owner's or operator's principal place of business.

(5) *Monthly reports.* The owner or operator shall submit monthly reports to the Regional Director, on forms supplied by the Regional Director within 2 days after the end of each reporting month which shall end at midnight on the last calendar date of each month. If no fishing trip is made during a month, a report so stating must be submitted.

(6) *Annual reports.* All persons required to submit reports under paragraph (b) of this section shall submit annually to the Regional Director, on forms supplied by the Regional Director, at least the following information relating to vessel characteristics: Name of the vessel, vessel's U.S. Coast Guard documentation number or state license number, engine horsepower, home port of vessel, registered length, and hold capacity (in pounds).

(c) *Owners and operators of party and charter boats*—(1) *Daily fishing log.* The owner or operator of any party or charter boat issued a permit under § 625.4 and carrying passengers for hire shall maintain, on board the vessel, an accurate daily fishing log for each fishing trip, on forms supplied by the Regional Director, showing at least:

(i) Name and permit number of the vessel;

(ii) Total amount in pounds and numbers of each species taken;

(iii) Date(s) fished;

(iv) Number of trips;

(v) Duration of trip;

(vi) Locality fished;

(vii) Crew size;

(viii) Landing port;

(ix) Number of anglers carried on each trip; and

(x) Discard rate of sub-legal regulated species.

(2) *When to fill in log.* To the extent possible, owners or operators shall fill out such logbooks at the end of any fishing trip. All logbook information required in paragraph (c)(1) of this section must be filled in for each fishing trip before starting the next fishing trip.

(3) *Inspection.* The owner or operator shall make the logbook available for inspection by an authorized officer, or by an employee of NMFS designated by the Regional Director to make such inspections, at any time during or after a trip.

(4) *Record retention.* For 1 year after the date of the last entry in the log, the owners or operator shall retain each logbook at the owner's or operator's principal place of business.

(5) *Monthly reports.* The owner or operator shall submit monthly reports to the Regional Director, on forms supplied by the Regional Director within 2 days after the end of each reporting month which shall end at midnight on the last calendar date of each month. If no fishing trip is made during a month, a report so stating must be submitted.

§ 625.7 Vessel identification.

(a) *Vessel name.* Each fishing vessel subject to this part and over 25 feet (7.6 m) in registered length must affix permanently its name on the port and starboard sides of the bow and, as possible, on its stern.

(b) *Official number.* Each fishing vessel subject to this part and over 25 feet (7.6 m) in registered length shall display its official number on the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck so as to be clearly visible from enforcement vessels and aircraft.

(c) *Numerals.* Except as provided in paragraph (e) of this section, the official number must be displayed in block Arabic numerals in contrasting color at least 18 inches (45.7 cm) in height for fishing vessels over 65 feet (19.8 m) in registered length, and at least 10 inches (25.4 cm) in height for all other vessels over 25 feet (7.6 m) in registered length. The registered length of a vessel, for purposes of this section, is that registered length set forth in U.S. Coast Guard or state records.

(d) *Duties of owner or operator.* The owner or operator of each vessel subject to this part will:

(1) Keep the vessel's name and official number clearly legible and in good repair, and

(2) Ensure that no part of the vessel, its rigging, its fishing gear, or any other object obstructs the view of the official number from any enforcement vessel or aircraft.

(e) *Nonpermanent marking.* Vessels carrying recreational fishing parties on a per capita basis or by charter must use markings that meet the above requirements, except for the requirement that they be affixed permanently to the vessel. The nonpermananet markings must be displayed in conformity with the above requirements when the vessel is fishing for summer flounder.

§ 625.8 Prohibitions.

(a) In addition to the general prohibitions specified in § 620.7 of this chapter, it is unlawful for any person owning or operating a vessel issued a moratorium permit under § 625.4 to do any of the following:

(1) Land or possess at sea any summer flounder, or parts thereof, that fail to meet the minimum fish size specified in § 625.23;

(2) Fail to affix and maintain markings as required by § 625.6;

(3) Possess 100 or more pounds (45.4 or more kg) of summer flounder, unless the vessel meets the minimum mesh-size requirement specified in § 625.24, or is fishing in the exempted area with an exemption permit, or is fishing with exempted gear specified in § 625.24(a) (2 and 3);

(4) Possess summer flounder in other than a box specified in § 625.25(d) if fishing with nets, other than exempted nets, with mesh that does not meet the minimum mesh-size requirement specified in § 625.24;

(5) Possess nets or netting on board with mesh that does not meet the requirements of § 625.24, or nets that are modified or otherwise obstructed, if

subject to the minimum mesh-size requirements specified in § 625.24, except pieces of neting no larger than 3 feet square (0.9 m square) that may be necessary to repair smaller mesh sections of the net forward of the terminal portion of the net to which the minimum mesh-size requirement applies;

(6) Possess nets or netting on board with mesh less than 5½ inches (14.0 cm) if fishing with exempted gear described in § 625.24, except pieces of netting no larger than 3 feet square (0.9 m square) that may be necessary to repair smaller mesh sections of the net forward of the terminal portion of the net to which the minimum mesh requirements applies;

(7) Fish west or south, as appropriate, of the line specified in § 625.25(a)(1), if exempted from the minimum mesh-size requirement specified in § 625.24 by an exemption permit issued under § 625.4;

(8) Sell or transfer to another person for a commercial purpose, other than transport, any summer flounder, unless that person has a dealer permit issued under § 625.5;

(9) Carry passengers for hire or more than three crew members for a charter boat or five crew members for a party boat while fishing commercially pursuant to a moratorium permit issued pursuant to § 625.4; or

(10) Refuse to embark a sea sampler if requested by the Regional Director.

(b) It is unlawful for the owner or operator of a party or charter boat issued a moratorium permit pursuant to § 625.4, when the boat is carrying passengers for hire or carrying more than three crew members if a charter boat or more than five members if a party boat, to:

(1) Possess summer flounder in excess of the possession limit established pursuant to § 625.25;

(2) Possess summer flounder smaller than the minimum size limit established pursuant to § 625.23(b);

(3) Fish for summer flounder during a season closed pursuant to § 625.22; or

(4) Refuse to embark a sea sampler if requested by the Regional Director.

(c) It is unlawful for any person to do any of the following:

(1) Possess in or harvest from the EEZ summer flounder either in excess of the possession limit specified in § 625.25 or before or after the time period specified in § 625.22, unless the person is operating a vessel issued a moratorium permit under § 625.4 and the moratorium permit is on board the vessel and has not been surrendered, revoked, or suspended;

(2) Offload, cause to be offloaded, sell or buy any summer flounder, whether on land or at sea, as an owner, operator, dealer, buyer or receiver in the summer flounder fishery without preparing accurately and submitting in a timely fashion the documents required by § 625.6;

(3) Purchase or otherwise receive, except for transport, summer flounder from the owner or operator of a vessel issued a moratorium permit under § 625.4 unless in possession of a valid permit issued under § 625.5;

(4) Purchase or otherwise receive for commercial purposes summer flounder caught by other than a vessel with a moratorium permit.

(5) Make any false statement, oral or written, to an authorized officer, concerning the catching, taking, harvesting, landing, purchase, sale, possession, or transfer of any summer flounder;

(6) Fail to report the Regional Director within 15 days any change in the information contained in the permit application;

(7) Fail to comply with any sea turtle conservation measure specified in § 625.26, including any sea turtle conservation measure implemented by notice in the **Federal Register** in accordance with paragraph § 625.26(d);

(8) Forcibly assault, resist, oppose, impede, intimidate, threaten, or interfere with any authorized sea sampler or observer while performing their duties as described under §§ 625.26 and 625.27, respectively; or

(9) Violate any other provision of this part, the Magnuson Act, or any regulation or permit issued under the Magnuson Act.

(d) All summer flounder possessed aboard a party or charter boat issued a permit under § 625.4(c) are deemed to have been harvested from the EEZ.

§ 625.9 Facilitation of enforcement.

See § 620.8 of this chapter.

§ 625.10 Penalties.

See § 620.9 of this chapter.

Subpart B—Management Measures

§ 625.20 Catch quotas and other restrictions.

(a) *Annual Review.* The Summer Flounder Monitoring Committee will review the following data on or before August 15th of each year to determine the allowable levels of fishing and other restrictions necessary to result in a fishing mortality rate of 0.53 in 1993 through 1995, and a fishing mortality rate of 0.23 in 1996 and thereafter:

(1) Commercial and recreational catch data;

(2) Current estimates of fishing mortality;

(3) Stock status;

(4) Recent estimates of recruitment;

(5) Virtual population analysis results;

(6) Levels of noncompliance by fishermen or individual states;

(7) Impact of size/mesh regulations;

(8) Impact of gear other than otter trawls on the mortality of summer flounder; and

(9) Any other relevant information.

(b) *Recommended measures.* Based on this review, the Summer Flounder Monitoring Committee will recommend to the Demersal Species Committee of the Council and the Commission the following measures to assure that the applicable fishing mortality rate specified in paragraph (a) of this section is not exceeded:

(1) The commercial quota will be set from a range of 0 to the maximum allowed to achieve the fishing mortality rate specified in paragraph (a) of this section;

(2) Commercial minimum fish size;

(3) Minimum mesh size;

(4) The recreational possession limit will be set from a range of 0 to 15 summer flounder to achieve the fishing mortality rate specified in paragraph (a) of this section;

(5) Recreational minimum fish size;

(6) Recreational season; and

(7) Restrictions on gear other than otter trawls.

(c) *Annual fishing measures.* The Demersal Specifies Committee shall review the recommendations of the Summer Flounder Monitoring Committee. Based on these recommendations and any public comment, the Demersal Species Committee shall make its recommendations to the Council with respect to the measures necessary to assure that the applicable fishing mortality rate specified in paragraph (a) of this section is not exceeded. The Council shall review these recommendations. Based on these recommendations, and any public comment, the Council shall make recommendations to the Regional Director with respect to the measures necessary to assure that the fishing mortality rates specified in paragraph (a) of this section are not exceeded. Included in the recommendation will be supporting documents as appropriate, concerning the environmental and economic impacts of the proposed action. The Regional Director will review these recommendations and any recommendations of the Commission. After such review, the Regional Director will publish in the **Federal Register** a proposed rule on or before September 15th to implement these measures, if he determines that these measures are necessary to assure that the fishing

mortality rates specified in paragraph (a) of this section are not exceeded. After considering public comment on this proposed rule, the Regional Director will publish a final rule in the **Federal Register** to implement the measures necessary to assure that the fishing mortality rates specified in paragraph (a) of this section are not exceeded.

(d) *Distribution of annual quota.* (1) The annual commercial quota will be distributed to the states based upon the following percentages:

State	Share (percent)
Maine	0.0482
New Hampshire	0.0005
Massachusetts	6.9111
Rhode Island	15.8914
Connecticut	0.9532
New York	7.7486
New Jersey	16.9473
Delaware	0.0180
Maryland	2.0662
Virginia	21.6001
North Carolina	27.8155

(2) All summer flounder sold in a state shall be applied against that state's annual commercial quota, regardless of where the summer flounder were harvested. Any overages of the commercial quota landed in any state will be deducted from that state's annual quota for the following year.

(e) *Review of state plans.* [Reserved]

§ 625.21 Closure.

(a) *Noncompliance.* [Reserved]

(b) *EEZ closure.* The Regional Director shall close the EEZ to fishing for summer flounder by commercial vessels for the remainder of the calendar year by publishing a notice of the **Federal Register** if he determines that the inaction of one or more states will cause the fishing mortality rate in § 625.20 to be exceeded, or if the commercial fisheries in all states have been closed. The Regional Director may reopen the EEZ if earlier inaction by a state has been remedied by that state, or if commercial fisheries in one or more states have been reopened without causing the fishing mortality rate in section 625.20 to be exceeded.

(c) *State inaction.* [Reserved]

§ 625.22 Time restrictions.

Owners or operators of vessels that are not eligible for a moratorium permit under § 625.4 and fishermen subject to the possession limit may fish for summer flounder only during the period May 15th to September 30th. This time period may be adjusted pursuant to the procedures in § 625.20.

§ 625.23 Minimum sizes.

(a) The minimum size for summer flounder is 13 inches (33 cm) total length for all vessels issued a moratorium permit under § 625.4, except party and charter boats carrying passengers for hire or carrying more than three crew members if a charger boat or more than five crew members if a party boat.

(b) The minimum size for summer flounder is 14 inches (35.6 cm) total length for all vessels that do not qualify for a moratorium permit, or party and charter boats holding moratorium permits but fishing with passengers for hire or carrying more than three crew members if a charter boat or more than five crew members if a party boat.

(c) The minimum size applies to any part of the fish, such as fillets, These minimum sizes may be adjusted pursuant to the procedures in § 625.20.

§ 625.24 Gear restrictions.

(a) *General.* Owners or operators of otter trawlers issued a moratorium permit under § 625.4 that land or possess 100 or more pounds (45.4 or more kg) of summer flounder, per trip, must fish with nets that have a minimum mesh size of 5½ inches (14.0 cm) diamond mesh or 6 inches (15.2cm) square mesh applied throughout the codend for at least 75 continuous meshes forward of the terminus of the net, or the terminal one-third portion of a net, measured from the terminus of the codend to the head rope for nets with less than 75 meshes.

(b) *Exemptions to the minimum mesh-size restriction.* The minimum mesh-size requirement does not apply to:

(1) Owners or operators of vessels issued a permit under paragraph § 625.4(e) and fishing from 1 November through 30 April in the "exemption area" which is east or north, as appropriate, of a line that follows 71°30.0′ W. longitude south to 40°53.1′ N. latitude, 71°30.0′ W. longitude; thence northeasterly 41°00.0′ N. latitude, 70°49.5′ W. longitude, thence easterly to 41°00.0′ N. latitude, 70°30.0′ W. longitude, thence southerly to 40°50.0′ N. latitude, 70°30.0′ W. longitude, thence easterly to 40°50.0′ N. latitude, 69°40.0′ W. longitude, thence southerly to 40°33.5′ N. latitude, 69°40.0′ W. longitude, thence southwesterly to 40°26.5′ N. latitude, 70°40.0′ W. longitude, thence northerly to 40°40.5′ N. latitude, 70°40.0′ W. longitude, then southwesterly to 40°30.0′ N.. latitude, 72°00.0′ W. longitude, thence southerly to 40°17.8′ N. latitude, 72°00.0′ W. longitude, thence southwesterly to 40°15.5′ N. latitude, 72°20.0′ W. longitude, thence southerly along 72°20.0′ W. longitude until it intersects the outer boundary of the EEZ. Vessel owners or operators of vessels fishing with an exemption permit cannot fish west or south, as appropriate, of the foregoing line.

(i) The Regional Director may terminate this exemption if he determines, after a review of sea sampling data, that vessels fishing under the exemption are discarding more than 10 percent of their entire catch of summer flounder per trip. If he makes such a determination, the Regional Director shall publish a notice in the **Federal Register** terminating the exemption for the remainder of the calendar year.

(ii) Vessels issued a permit under § 625.4(e) may transit the area west and south of the line described in paragraph (a)(1)(i) of this section if the vessel's fishing gear is stowed in a manner prescribed under 50 CFR 651.20(f) so that it is not "available for immediate use" outside the exempted area.

(2) *Fly nets.* Owners or operators of vessels fishing with a two-seam otter trawl fly net with the following configuration, provided that no other nets or netting with mesh smaller than 5½ inches (14.0 cm) are on board:

(i) The net has large mesh in the wings that measures 8 inches (20.3 cm) to 64 inches (162.6 cm);

(ii) The first body section (belly) of the net has 35 or more meshes that are at least 8 inches (20.3 cm); and

(iii) The mesh decreases in size throughout the body of the net to as small as 2 inches (5 cm) or smaller towards the terminus of the net.

(iv) The Regional Director may terminate this exemption if he determines, after a review of sea sampling data, that vessels fishing under the exemption, on average, are discarding more than 1 percent of their entire catch of summer flounder per trip. If he makes such a determination, the Regional Director shall publish a notice in the **Federal Register** terminating the exemption for the remainder of the calendar year.

(3) *Pelagic nets.* Owners or operators of vessels fishing with a four-seam otter trawl pelagic net with the following configuration, provided that no other nets or netting with mesh smaller than 5½ inches (14.0 cm) are on board:

(i) The wings of the net have mesh that measures 32 inches (81.3 cm) or greater;

(ii) The first body section (belly) of the net consists of 40 meshes of 15 inches (38.1 cm) or greater; and

(iii) The mesh in the remaining portion of the net decreases in size to a mesh size as small as 1½ inches (3.81 cm) or smaller in the terminal portion of the net.

(iv) The Regional Director may terminate this exemption if he determines, after a review of sea sampling data, that vessels fishing under the exemption, on average, are discarding more than 1 percent of their entire catch of summer flounder per trip. If he makes such a determination, the Regional Director shall publish a notice in the **Federal Register** terminating the exemption for the remainder of the calendar year.

(c) *Restriction.* Owners or operators subject to the minimum mesh-size requirement may not have nets or pieces of netting on board the vessel that do not meet the minimum mesh-size requirement except pieces of netting no larger than 3 feet square (0.9 m square) that may be necessary to repair smaller mesh sections of the net forward of the terminal portion of the net to which the minimum mesh-size requirement applies.

(d) *Mesh-size measurement.* Mesh sizes are measured by a wedge-shaped gauge having a taper of two centimeters in eight centimeters and a thickness of 2.3 millimeters inserted into the meshes under a pressure or pull of five kilograms. The mesh size will be the average of the measurement of any series of 20 consecutive meshes for nets having 75 or more meshes, and 10 consecutive meshes for nets having fewer than 75 meshes. The mesh in the regulated portion of the net will be measured at least five meshes away from the lacings, running parallel to the long axis of the net.

(e) *Net modifications.* The owner or operator of a fishing vessel shall not use any device, gear, or material, including, but not limited to nets, net strengtheners, ropes, lines, or chaffing gear, on the top of the regulated portion of a trawl net; except that, one splitting strap and one bull rope (if present), consisting of line or rope no more than 2 inches (5 cm) in diameter, may be used if such splitting strap and/or bull rope does not constrict in any manner the top of the regulated portion of the net, and one rope no greater than 0.75 inches (1.9 cm) in diameter extending the length of the net from the belly to the terminus of the cod end along each of the following: The top, bottom, and each side of the net. "Top of the regulated portion of the net" means the 50 percent of the entire regulated portion of the net that (in a hypothetical situation) will not be in contact with the ocean bottom during a tow if the regulated portion of the net were laid flat on the ocean floor. For the purpose of this paragraph, head ropes shall not be considered part of the top of the regulated portion of a trawl net.

§ 625.25 Possession limit.

(a) No person shall possess more than six summer flounder in or harvested from the EEZ unless that person is the owner or operator of a fishing vessel issued a moratorium permit under § 625.4. Persons on board a commercial vessel that is not eligible for a moratorium permit under § 625.4 are subject to this possession limit. The owner or operator and crew of a charter or party boat issued a moratorium permit under § 625.4(b) are not subject to the possession limit when not carrying passengers for hire and when the crew size does not exceed five for a party boat and three for a charter boat.

(b) If whole summer flounder are processed into fillets, an authorized officer will convert the number of fillets to whole summer flounder at the place of landing by dividing the fillet number by two. If summer flounder are filleted into a single (butterfly) fillet, such fillet shall be deemed to be from one whole summer flounder.

(c) Summer flounder harvested by vessels subject to the possession limit with more than one person on board may be pooled in one or more containers. Compliance with the daily possession limit will be determined by dividing the number of summer flounder on board by the number of persons on board, other than the captain and the crew. If there is a violation of the possession limit on board a vessel carrying more than one person, the violation shall be deemed to have been committed by the owner and/or operator.

(d) Owners or operators of otter trawlers issued a moratorium permit under § 625.4 and fishing with or possessing on board nets or pieces of net that do not meet the minimum mesh-size requirements, except pieces of netting no larger than 3 feet square (0.9 m square) that may be necessary to repair smaller mesh sections of the net forward of the terminal portion of the net to which the minimum mesh-size requirement applies, may not possess more than 100 pounds (45.4 kg) of summer flounder. Summer flounder on board these vessels shall be stored on board the vessel in a separate box that measures 36 inches (91.4 cm) long, 15 inches (38.1 cm) wide, and 12 inches (30.4 cm) high for a volume of 3.75 cubic feet (0.1 cubic meters) and which is readily available for inspection.

§ 625.26 Sea sampler program.

(a) *Request to take sea sampler.* The Regional Director may request a fishing vessel issued a permit under § 625.4 to take on board an observer or sea sampler to accompany the vessel on all fishing trips conducted during the period specified in the request. If requested by the Regional Director to take an observer or sea sampler, a vessel may not engage in any fishing operations for summer flounder unless an observer or sea sampler is on board or unless the requirement is waived.

(b) *Responsibility for sea sampler placement.* If requested by the Regional Director to take a sea sampler, it is the responsibility of the vessel owner to arrange for and facilitate sea sampler placement. Upon 48-hours notice, the Regional Director will provide information concerning sea sampler availability and placement.

(c) *Waiver.* The Regional Director may waive the sea sampler requirement based on a finding that the facilities for housing the sea sampler or for carrying out sea sampler functions are so inadequate or unsafe that the health or safety of the sea sampler or the safe operation of the vessel would be jeopardized.

(d) *Sea sampler functions.* If requested by the Regional Director to take a sea sampler, the vessel owner, vessel operator, and crew must cooperate with the sea sampler in the performance of the sea sampler's duties, including:

(1) Notifying the sea sampler in a timely fashion of when fishing operations are to begin and end;

(2) Allowing for the embarking and debarking of the sea sampler, as specified by the Regional Director, ensuring that transfers of sea samplers at sea are accomplished in a safe manner, via small boat or raft, during daylight hours as weather and sea conditions allow, and with the agreement of the sea sampler involved;

(3) Providing adequate accommodations and food;

(4) Allowing the sea sampler access to all areas of the vessel necessary to conduct sea sampler duties;

(5) Allowing the sea sampler access to communications and navigation equipment and personnel as necessary to perform sea sampler duties;

(6) Providing true vessel locations, by latitude and longitude or loran coordinates, as requested by the sea sampler;

(7) Notifying the sea sampler of any sea turtles, marine mammals, summer flounder, or other specimens taken by the vessel, as requested by the sea sampler;

(8) Providing the sea sampler with sea turtles, marine mammals, summer flounder, or other specimens taken by the vessel, as requested by the sea sampler; and

(9) Providing storage for biological specimens, including cold storage if available, as requested by the sea sampler. These specimens must be retained on board the vessel, as instructed by the sea sampler or until retrieved by authorized NMFS personnel.

§ 625.27 Sea turtle conservation.

(a) *Sea turtle handling and resuscitation.* The sea turtle handling and resuscitation requirements specified in 50 CFR 227.72(e)(1) (i) and (ii) apply with respect to sea turtles incidentally taken by a vessel fishing for summer flounder.

(b) *Sea turtle monitoring and assessment program.* (1) The Regional Director will establish a monitoring and assessment program, in cooperation with the Council and the State of North Carolina, to measure the incidental take of sea turtles in the summer flounder fishery, monitor compliance with required conservation measures by trawlers, and predict interactions between the fishery and sea turtles to prevent turtle mortalities.

(2) A scientifically designed, observer-based monitoring program may be used to gather scientific data measuring the incidental take of turtles by trawlers in the summer flounder fishery and to report turtle distribution and abundance.

(3) A cooperative sea turtle monitoring and assessment program utilizing a variety of information, including aerial and vessel surveys; on-board observers; individually tagged turtles; physical parameters, such as sea surface temperatures, and reports from the sea turtle stranding network; and other relevant and reliable information, will assess and predict turtle distribution, abundance, movement patterns and timing to provide information to NMFS to prevent turtle mortality caused by the summer flounder fishery.

(c) *Restricted tow times.* (1) A vessel that is engaged in summer flounder fishing operations and is utilizing trawl gear must restrict tows to 75 minutes during periods established by the Regional Director as necessary to protect endangered turtles. This requirement applies to vessels within the EEZ bounded on the north by a line along 37°05′ N. latitude, bounded on the south by a line along 33°35′ N. latitude, and bounded on the east by a line 7 nautical miles from the shoreward boundary of the EEZ. Tow times are measured from the time trawl doors enter the water until they are removed from the water.

(2) The Regional Director may implement revisions to the tow-time requirement, for a period not to exceed 1 year, after consultation with the Council, the Director of the state of North Carolina Division of Marine Fisheries, and the marine fisheries agency of any other affected state, by publishing a notice in the **Federal Register.** The Regional Director may impose additional conditions to ensure compliance with the restricted tow-time requirement, such as conditions for synchronized tow times or additional observer coverage. The Regional Director may impose more restrictive tow-time requirements if he determines such action is necessary to protect sea turtles adequately. The Regional Director may eliminate or provide less restrictive tow-time requirements if existing requirements are not needed to protect sea turtles adequately and if the action would benefit the fishery. Revisions to tow-time restrictions may include alterations to the duration of the tow-time requirement, changes to the geographic area where or the time when the requirement is applicable, changes to the type of vessels to which the requirement applies, or changes to the boundaries where compliance with the measures is required.

(d) *Closure of the fishery.* The Regional Director may close the summer flounder fishery in Federal waters, or any part thereof, after consultation with the Council, the Director of the State of North Carolina Division of Marine Fisheries, and the marine fisheries agency of any other affected state, by publishing a notice in the **Federal Register.** The Regional Director shall take such action if he determines a closure is necessary to avoid jeopardizing the continued existence of any species listed under the Endangered Species Act (ESA). The determination of the impact on sea turtles must be based on turtle mortalities and projections of turtle mortality by the NMFS monitoring and assessment program. A closure will be applicable to those areas specified in the notice and for the period specified in the notice. The Regional Director will attempt to provide as much advance notice as possible consistent with the requirements of the ESA and will have the closure announced on channel 16 of the marine VHF radio. A closure may prohibit all fishing operations, may prohibit the use of certain gear, may require that gear be stowed, or may impose similar types of restrictions on fishing activities. The prohibitions, restrictions and duration of the closure will be specified in the notice.

(e) *Reopening of the fishery.* (1) The Regional Director may reopen the summer flounder fishery in Federal waters, or any part thereof, after consultation with the Council, the Director of the State of North Carolina Division of Marine Fisheries, and the marine fisheries agency of any other affected state, by publishing a notice in the **Federal Register.** The Regional Director may reopen the summer flounder fishery in Federal waters, or any part thereof, if additional sea turtle conservation measures are implemented and if projections of NMFS's sea turtle monitoring program indicate that such measures will ensure that continued operation of the summer flounder fishery is not likely to jeopardize the continued existence of any species listed under the ESA.

(2) The Regional Director may reopen the summer flounder fishery in Federal waters, or any part thereof, if the sea turtle monitoring program indicates changed conditions and if projections of the sea turtle monitoring program indicate that NMFS can ensure that continued operation of the summer flounder fishery is not likely to jeopardize the continued existence of any species listed under the ESA.

(f) *Additional sea turtle conservation measures.* (1) The Regional Director may impose additional sea turtle conservation measures in Federal waters, after consultation with the Council, the Director of the State of North Carolina Division of Marine Fisheries, and the marine fisheries agency of any other affected state, by publishing a notice in the **Federal Register.** The Regional Director shall take such action if he determines a closure is necessary to avoid jeopardizing the continued existence of any species listed under the ESA or if such action would allow reopening of the summer flounder fishery in Federal waters. The determination of the impact on sea turtles must be based on turtle mortalities and projections of turtle mortality by the NMFS monitoring and assessment program.

(2) The Regional Director may require the use of a turtle excluder device (TED). The type or types of TEDs that are required will be specified in the **Federal Register** notice. The requirement to use TEDs may apply to certain areas or during certain times of the year as specified in the notice.

(3) Additional conservation measures may require observers on all or a certain portion of the vessels engaged in fishing for flounder to gather data on incidental capture of sea turtles and to monitor compliance with required conservation measures. This requirement may apply to certain types of vessels, certain areas, or during certain times of the year.

(g) *Experimental projects.* Notwithstanding paragraphs (a) through (f) of this section, the Regional Director may authorize summer flounder fishing, as a part of experimental projects to measure turtle capture rates, to monitor turtle abundance, to test alternative gear or equipment, or for other research purposes. Research must be approved by the Regional Director, and it must not be likely to jeopardize the continued existence of any species listed under the ESA. The Regional Director will impose such conditions as he determines necessary to ensure adequate turtle protection during experimental projects. Individual authorizations may be issued in writing. Authorizations applying to multiple vessels will be published in a notice in the **Federal Register.**

(h) *Observer program*—(1) *Request to take observer.* The Regional Director may request a fishing vessel issued a moratorium permit under § 625.4 to take on board an observer to accompany the vessel on all fishing trips conducted during the period specified in the request. If requested by the Regional Director to take an observer, a vessel may not engage in any fishing operations for summer flounder unless an observer is on board or unless the observer requirement is waived.

(2) *Responsibility for observer placement.* If requested by the Regional Director to take an observer, it is the responsibility of the vessel owner to arrange for and facilitate observer placement. Upon 48-hours notice, the Regional Director will provide information concerning observer availability and placement.

(3) *Waiver.* The Regional Director may waive the observer requirement based on a finding that the facilities for housing the observer or for carrying out observer functions are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized.

(4) *Observer functions.* If requested by the Regional Director to take an observer, the vessel owner, vessel operator, and crew must cooperate with the observer in the performance of the observer's duties, including:

(i) Notifying the observer in a timely fashion of when commercial fishing operations are to begin and end;

(ii) Allowing for the embarking and debarking of the observer, as specified by the Regional Director, ensuring that transfers of observers at sea are accomplished in a safe manner, via small boat or raft, during daylight hours as weather and sea conditions allow, and with the agreement of the observer involved;

(iii) Providing adequate accommodations and food;

(iv) Allowing the observer access to all areas of the vessel necessary to conduct observer duties;

(v) Allowing the observer access to communications and navigation equipment and personnel as necessary to perform observer duties;

(vi) Providing true vessel locations, by latitude and longitude or loran coordinates, as requested by the observer;

(vii) Notifying the observer of any sea turtles, marine mammals, summer flounder, or other specimens taken by the vessel, as requested by the observer;

(viii) Providing the observer with sea turtles, marine mammals, summer flounder, or other specimens taken by the vessel, as requested by the observer; and

(ix) Providing storage for biological specimens, including cold storage if available, as requested by the observer. These specimens must be retained on board the vessel, as instructed by the observer or until retrieved by authorized NMFS personnel.

[FR Doc. 92–13646 Filed 6–5–92; 3:45 pm]
BILLING CODE 3510–22–M

---

50 CFR Part 663

Pacific Coast Groundfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of availability of an amendment to a fishery management plan, and request for comments.

SUMMARY: NMFS announces that the Pacific Fishery Management Council (Council) has submitted Amendment 6 to the Fishery Management Plan for Pacific Coast Groundfish for Secretarial review and is requesting comments from the public. Amendment 6 proposes to implement a license limitation limited entry program for trawl, longline, and fishpot gear in the Pacific Coast groundfish fishery. Copies of the amendment, the draft supplemental environmental impact statement/regulatory impact review (DSEIS/RIR) may be obtained from the Council's address listed below. Written comments are requested from the public.

DATES: Comments on Amendment 6 must be received on or before August 4, 1992.

ADDRESSES: Comments should be sent to Mr. Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115–0070; or Mr. E. Charles Fullerton, Director, Southwest Region, National Marine Fisheries Service, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213.

Copies of Amendment 6 with its Draft Supplemental Environmental Impact Statement/Regulatory Impact Review (DSEIS/RIR) are available from Larry Six, Executive Director, Pacific Fishery Management Council, 2000 SW. First Avenue, suite 420, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206–526–6140, Rodney McInnis at 310–980–4040, or the Pacific Fishery Management Council at 503–326–6352.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (Magnuson Act), as amended, requires that each regional fishery management council submit any fishery management plan or plan amendment it prepares to the Secretary of Commerce (Secretary) for review and approval, disapproval, or partial disapproval. The Magnuson Act also requires that the Secretary, on receiving the plan or amendment, must immediately publish a notice that the plan or amendment is available for public review and comment. The Secretary will consider the public comments received during the comment period in determining whether to approve Amendment 6.

If approved, Amendment 6 would implement a license limitation limited entry program for trawl, longline, and fishpot gear in the Pacific Coast groundfish fishery based on the issuance of Federal permits to vessels that demonstrated a minimum qualifying level of landings of groundfish with limited entry gear between July 11, 1984, and August 1, 1988. It also would implement an open access fishery for all other gear as well as vessels with longline or fishpot gear not qualifying for limited entry permits. It is expected that 90 to 95 percent of the allowable groundfish harvest would be allocated to the limited entry segment and the remainder allocated to the open access segment. Limited entry permits would be endorsed for specific gear usage. Other provisions of Amendment 6 include exceptions for vessel conversion/construction/purchase or replacement, and provisions for temporary permits to be issued to fish for Pacific whiting, shortbelly rockfish, and jack mackerel north of 39 degrees N. latitude if necessary for domestic utilization.

Regulations proposed by the Council to implement Amendment 6 are

scheduled to be published within 15 days of this notice.

List of Subjects in 50 CFR Part 663

Administrative practice and procedure, Fisheries, Fishing, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 5, 1992.

Alfred J. Bilik,

Acting Director of Office Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-13645 Filed 5-9-92; 3:45 pm]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 57, No. 112
Wednesday, June 10, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Accreditation Committee of the National Organic Standards Board (NOSB); Meeting

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub Law 92–463), as amended, the Agricultural Marketing Service announces the forthcoming meeting of the Accreditation Committee.

DATES/TIME: 8 a.m. to 5 p.m. on June 27–28, 1992.

ADDRESSES: The Best Western El Rancho Inn, located at 1100 El Camino Real, Millbrae, California.

FOR FURTHER INFORMATION CONTACT: Dr. Harold S. Ricker, Staff Director, National Organic Standards Board, Room 4006–South Building, P. O. Box 96456, Washington, DC 20090–6456. Telephone: (202) 720–2704.

SUPPLEMENTARY INFORMATION: Section 2119 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Fact Act), Public Law No. 101–624, requires establishment of a National Organic Standards Board. The purpose of the NOSB is to assist in the development of standards for substances to be used in organic production and handling and to advise the Secretary on any other aspects of the implementation of title XXI of the Fact Act. The NOSB met for the first time in Washington, DC, in March and formed six committees to work on various aspects of the Program. One of the committees formed is the Accreditation Committee.

The purpose of the Accreditation Committee meeting is to review input from existing certifying agents concerning the development of a working model for organic certification accreditation pursuant to Sections 2115 and 2116 of the Organic Foods Production Act of 1990. The Accreditation Committee will focus on: (1) The possible criteria for certifier program management; (2) the possible procedure for determining certifier compliance; and, (3) possible approaches to implementing the program.

A final agenda will be available on June 5, 1992. Persons requesting copies should contact Mrs. Fox at the above address or telephone number.

The meetings will be open to the public, although seating will be limited. Individuals and organizations wishing to provide written comments on these issues or to express public comment on accreditation issues should forward the information and request to Harold S. Ricker at the above address or FAXED to 202, 690–0338 by June 12, 1992. The Accreditation Committee requests that public input be limited to accreditation issues at this time and wishes to note that the NOSB will provide opportunities for public input on other issues at a later date.

Dated: June 4, 1992.

Kenneth C. Clayton,

Deputy Administrator.

[FR Doc. 92–13601 Filed 6–9–92; 8:45 am]

BILLING CODE 3410–01–M

Forest Service

Exemption of Benchmark Blowdown Salvage Project From Appeal

AGENCY: Forest Service, Northern Region, USDA.

ACTION: Notification that a salvage timber sale project is exempted from appeals under provisions of 36 CFR part 217.

SUMMARY: In the fall of 1991, several areas in the Benchmark 4744 Timber Sale, Clearwater National Forest, blew down in a windstorm. The area is located approximately 26 air miles east of Moscow, Idaho. In January 1992, the Palouse District Ranger proposed a salvage and reforestation project for the blowdown area. There are five areas of concentrated blowdown totalling approximately 22 acres.

The District Ranger has determined, through an environmental analysis documented in the Benchmark Blowdown Salvage Timber Sale Environmental Assessment (EA), that there is good cause to expedite these actions in order to rehabilitate National Forest System lands and recover damaged resources. Salvage of commercial sawtimber within the blowdown area must be accomplished within the spring and summer of 1992 to avoid further deterioration of sawtimber, and potential damage to other forest resources.

EFFECTIVE DATE: June 10, 1992.

FOR FURTHER INFORMATION CONTACT: Dick Hodge; District Ranger; Palouse Ranger District; Clearwater National Forest; Route 2, Box 4; Potlatch, Idaho 83855.

SUPPLEMENTARY INFORMATION: The Benchmark 4744 Timber Sale was logged during the period of 1985 to 1991. Five areas, totalling 22 acres, were damaged by a windstorm in the fall of 1991. The blowdown timber is within three management areas, M2, A4 and E1 (Clearwater National Forest and Resource Management Plan (Forest Plan), September 23, 1987) which are to be managed for riparian dependent resources, timber production, and visual quality respectively. All lands are suitable for timber production. In January 1992, the Palouse District Ranger proposed the salvage harvest of the trees which were damaged in the windstorm. This proposal was designed to: (1) Salvage merchantable timber products in a timely manner before they deteriorate; (2) increase long-term timber yields by reducing delays in regeneration; (3) prevent further spread of insects such as Douglas-fir bark bettle, which is known to occur in this area; (4) approach the desired condition for amounts and distribution of woody debris in headwater streams; and (5) rehabilitate and recover commercial forest lands by planting trees in areas of concentrated blowdown. An interdisciplinary team was convened, and scoping began in January 1992. A scoping letter was sent to individuals and groups, and a meeting with industry and local conservation groups was held. Issues were identified, and served as the foundation of the environmental analysis.

The interdisciplinary team developed and analyzed three action alternatives and a no action alternative. The results

of the analysis are disclosed in the Environmental Assessment and accompanying project file. Alternatives ranged from no harvest to salvaging 22 acres of the blowdown as well as roadside salvage only.

The selected alternative (Alternative A) would salvage 500 MBF of timber on 22 acres adjacent to, and within, previously harvested areas and along existing roads. No road construction or reconstruction will occur. The sale and accompanying work is designed to accomplish the objectives as quickly as possible; minimize salvage volume lost; increase long-term timber yields; reduce risk of insect infestation, as well as reduce risk of further sedimentation; and facilitate prompt reforestation of areas affected by the blowdown. To expedite this salvage project and accompanying work, procedures outlined in 36 CFR 217.4(a)(11) are being followed. Under this Regulation the following may be exempt from appeal:

Decisions related to rehabilitation of National Forest System lands and recovery of Forest Resources from natural disasters or other natural phenomena, such as severe winds * * * when the Regional Forester * * * determines and gives notice in the **Federal Register** that good cause exists to exempt such decisions from review under this part.

Based on the environmental analysis documented in the Benchmark Blowdown Salvage Timber Sale EA and the District Ranger's Decision Notice for this project, I have determined that good cause exists to exempt this decision from administrative review. Therefore, upon publication of this notice, this project will not be subject to review under 36 CFR part 217.

Dated: June 4, 1992.

John M. Hughes,

Deputy Regional Forester, Northern Region.

[FR Doc. 92-13575 Filed 6-9-92; 8:45 am]

BILLING CODE 3410-11-M

Exemption of Porcupine Blowdown Salvage Project From Appeal

AGENCY: Forest Service, Northern Region, USDA.

ACTION: Notification that a salvage timber sale project is exempted from appeals under provisions of 36 CFR part 217.

SUMMARY: In the summer of 1991, approximately 30 acres within the Porcupine Timber Sale Area blew down in a windstorm. In January 1992, the Palouse District Ranger of the Clearwater National Forest proposed a salvage project for the blowdown area. The proposal would harvest blowdown timber along existing roads and adjacent to a previously harvested area.

The District Ranger has determined, through analysis documented in the Porcupine Blowdown Salvage Timber Sale Decision Memo, that there is good cause to expedite these actions in order to rehabilitate National Forest System lands and recover damaged resources. Salvage of commercial sawtimber within the blowdown area must be accomplished within the spring and summer of 1992 in order to avoid further deterioration of sawtimber and potential damage to other forest resources.

EFFECTIVE DATE: Effective on June 10, 1992.

FOR FURTHER INFORMATION CONTACT: Dick Hodge; District Ranger; Palouse Ranger District; Clearwater National Forest; Route 2, Box 4; Potlatch, Idaho 83855.

SUPPLEMENTARY INFORMATION: The Porcupine Timber Sale was logged during the period of 1985 to 1991. An area of approximately 30 acres adjacent to an existing harvest unit was damaged by a windstorm in the summer of 1991. The blowdown timber is within a management area of the Clearwater National Forest Plan, which is to be managed for sustained production of wood products and provides for protection of soil and water quality. This project includes no activity within riparian areas.

This proposal was designed to: (1) Salvage merchantable timber products; (2) prevent further spread of insects such as Douglas-fir bark beetle, which is known to occur in this area; (3) protect existing seedlings and saplings to optimize long-term timber yield; and (4) reduce risk of potential wildfire that may damage other forest resources. An interdisciplinary team was convened, and scoping began January 1992. A scoping letter was sent to individuals and groups, and a meeting with industry and local conservation groups was held. Issues were identified and served as the foundation of the environmental analysis. The interdisciplinary team developed and analyzed two alternatives, the proposed action and a no action alternative. The results of the analysis are disclosed in the Decision Memo and accompanying project file.

The selected alternative would salvage 60 thousand board feet of blowdown timber on approximately 30 acres along existing roads adjacent to and within previously harvested areas. No road construction or reconstruction will occur.

The sale and accompanying work are designed to accomplish the objectives as quickly as possible, to minimize salvage volume lost and to reduce potential risk of insect infestations and wildfire. To expedite this salvage project and accompanying work, procedures outlined in 36 CFR 217.4(a)(11) are being followed. Under this Regulation the following may be exempt from appeal:

Decisions related to rehabilitation of National Forest System lands and recovery of Forest Resources from natural disasters or other natural phenomena, such as * * * severe wind * * * when the Regional Forester * * * determines and gives notice in the **Federal Register** that good cause exists to exempt such decisions from review under this part.

Based on the analysis documented in the Porcupine Blowdown Salvage Decision Memo, I have determined that good cause exists to exempt this decision from administrative review. Therefore, upon publication of this notice, this project will not be subject to review under 36 CFR Part 217.

Dated: June 4, 1992.

John M. Hughes,

Deputy Regional Forester, Northern Region.

[FR Doc. 92-13578 Filed 6-9-92; 8:45 am]

BILLING CODE 3410-11-M

Exemption of Idaho Salvage Timber Sale Project From Appeal

AGENCY: USDA, Forest Service, Northern Region.

ACTION: Notification that a fire recovery and salvage timber sale project is exempted from appeals under provisions of 36 CFR part 217.

SUMMARY: In 1990, 14 acres of timber adjacent to the Idaho Gulch Timber Sale were killed as a result of an escaped prescribed burn. In 1992, the Wallace Ranger District of the Idaho Panhandle National Forest proposed a timber sale to salvage and rehabilitate the burned area. The District Ranger has determined, through an environmental analysis documented in the Idaho Salvage Timber Sale Environmental Assessment (EA), that there is good cause to expedite these actions to order to rehabilitate National Forest system lands and recover damaged resources. Salvage of commercial sawtimber within the fire area must be accomplished within the summer of 1992 in order to avoid further deterioration of sawtimber.

EFFECTIVE DATE: Effective on June 10, 1992.

FOR FURTHER INFORMATION CONTACT: Steve Williams; District Ranger; Wallace Ranger District; Idaho

Panhandle National Forest; Box 14; Silverton, Idaho 83867.

SUPPLEMENTARY INFORMATION: The Idaho Gulch Timber Sale was logged between 1983 and 1990. The units adjacent to the proposed salvage areas were treated with a prescribed burn in the spring of 1990. Approximately 14 acres of timber outside the harvest units were burned by an escaped fire. The fire-killed timber is within Management Areas 1 and 6 as designated by the Idaho Panhandle Forest Plan, August 1987. Management Area 1 includes lands designated for timber production. Management Area 6 lands are defined as lands designated for timber production within big game summer range. In May 1992, the Wallace District Ranger proposed the salvage of trees which were killed by fire. This proposal was designed to meet the following needs: (a) Salvage merchantable timber products, (b) provide long-term growth and production of commercially valuable wood products, (c) provide snag dependent species habitat and elk security, and (d) contribute to watershed recovery through application of management practices designed to minimize erosion and sedimentation potential. An interdisciplinary team was convened, and scoping began in 1991. Five issues were identified and were the basis for the analysis of the environmental consequences discussed in the Assessment.

The interdisciplinary team developed two alternatives, the no action alternative and the salvage alternative. The environmental consequences associated with these alternatives are disclosed in an Environmental Assessment which was prepared for the proposal.

The selected alternative (Action Alternative) would salvage 210 MBF of dead timber on 14 acres. No new road construction or reconstruction is planned for this sale. All units are accessible from existing roads. The sale and accompanying rehabilitation work is designed to accomplish the objectives as quickly as possible, minimize salvage volume lost, reduce risk of injury to naturally regenerating seedlings, facilitate prompt reforestation of burned areas, initiate watershed and fisheries habitat recovery projects, and restore and maintain elk security as rapidly as possible. To expedite this sale and accompanying work, procedures outlined in 36 CFR part 217(a)(11) are being followed. Under this Regulation the following may be exempt from appeal:

Decisions related to rehabilitation of National Forest System lands and recovery of Forest Resources from natural disasters or other natural phenomena, such as wildfires * * * when the Regional Forester * * * determines and gives notice in the **Federal Register** that good causes exist to exempt such decisions from review under this part.

Based on the environmental analysis documented in the Idaho Salvage Timber Sale EA and the District Ranger's Decision Notice for this project, I have determined that good cause exists to exempt this decision from administrative review. Therefore, upon publication of this notice, this project will not be subject to review under 36 CFR part 217.

Dated: June 4, 1992.

John M. Hughes,

Deputy Regional Forester, Northern Region.

[FR Doc. 92-13577 Filed 6-9-92; 8:45 am]

BILLING CODE 3410-11-M

Exemption of Fourth of July Fire Salvage Project From Appeal

AGENCY: USDA, Forest Service, Northern Region.

ACTION: Notification that a fire recovery and timer salvage sale project is exempt from appeals under provisions of 36 CFR part 217.

SUMMARY: In October 1991, the Sylvanite Complex Fires burned approximately 12,000 acres of the Kootenai National Forest. Lands within the burn area were treated during the fire suppression efforts to stabilize slopes and prevent damage to watersheds and other resources. The Kootenai Forest Supervisor has determined these initial efforts were not sufficient to meet long-term objectives of the Kootenai National Forest Land and Resource Management Plan (Forest Plan). In May 1992, the Forest Supervisor proposed a timber salvage and rehabilitation project consisting of four major actions: (1) Salvage timber damaged by fire and windthrow on 2,187 acres; (2) construction of 3.8 miles of specified, 1.7 miles of temporary, and reconstruction of 17 miles of roads to facilitate removal of timber (all temporary roads would be recontoured, revegetated, and closed after harvest operations); (3) reforestation and revegetation by planting tree and shrub species on 3,151 acres; and (4) reduction of fuel concentrations on 2,547 acres.

The Forest Supervisor has determined, through an environmental analysis documented in the Fourth of July Fire Recovery Project Environmental Assessment (EA), that there is good cause to expedite these actions for rehabilitation of National Forest System lands and recovery of damaged resources. Salvage of commercial sawtimber within the fire area must be accomplished quickly to avoid further deterioration of sawtimber.

This is notification that the decision to implement the Fourth of July Fire Recovery Project on the Kootenai National Forest is exempted from appeal. This conforms with the provisions of 36 CFR 217.4(a)(11).

EFFECTIVE DATE: Effective on June 10, 1992.

FOR FURTHER INFORMATION CONTACT: Robert L. Schrenk, Forest Supervisor, Kootenai National Forest, 506 U.S. Highway 2 West, Libby, MT 59923.

SUPPLEMENTARY INFORMATION: In October 1991, the Sylvanite Complex Fires burned and blew down timber on 12,500 acres of the Kootenai National Forest. The Fourth of July Fire Salvage Project analysis area contains approximately 8,310 of these affected acres. Approximately 6,287 acres affected by the fire contains timber stands within Management Areas that are considered suitable for timber production under the Kootenai National Forest Plan. A rehabilitation team surveyed the area and assessed damage to forest resources. Wildlife habitats were altered when vegetation was removed by the fire reducing effective cover and security areas. Fisheries and riparian areas were altered when stabilizing woody material in stream channels was partly or completely removed by the fire. In other areas, blowdown has blocked fisheries movement up streams and water quality has been lowered. In October and November of 1991, the most severely burned and disturbed areas were seeded by hand. Additional isolated areas of the fire were seeded and fertilized by helicopter, however, winter weather precluded extensive seeding operations.

In December 1991, the Three Rivers Deputy District Ranger proposed projects to recover damaged timber and rehabilitate areas affected by the fire. The proposal was designed to meet the following needs: (1) Recover merchantable timber products; (2) rehabilitate, through reforestation and revegetation, stands damaged by fire and windthrow to expedite establishment of wildlife hiding cover, promote watershed stabilization, and enhance future timber production; and (3) provide for the recovery of conditions essential to sustain ecological systems in the area by promoting species diversity.

An interdisciplinary team of resource specialists was formed to analyze opportunities to accomplish the

identified purpose and need. An environmental analysis of these actions was started in December 1991. Initial scoping of issues began in December 1991 and consisted of press releases, individual letters, and an open house which was conducted for individuals and organizations thought to have an interest in the area. In addition, contacts were made with other interested State and Federal agencies. As a result, three environmental issues were identified and formed the foundation for the analysis of environmental effects disclosed in the EA.

The EA discloses the analysis of five alternatives, including a "no action" alternative. Alternatives analyzed investigated recovery actions ranging from treatment of 2,316 acres, 2,187 acres, 1,486 acres, 1,210 acres, and no treatments. Estimated recovery of timber salvage material ranges from a high of 27.7 MMBF to no slavage operations. The selected alternative (Alternative 6) includes four major actions. The first is to harvest approximately 2,187 acres of fire- and blowdown-killed or damaged timber within the analysis area. Harvest in all cases is limited to removal of dead and severely damaged trees.

Second, an estimated 3.8 miles of specified, 1.7 miles of temporary, and 17 miles of recontructed roads will be needed to facilitate removal of timber. All temporary roads will be recontoured, revegetated, and closed after timber harvest operations are completed. Third, reforestation and revegetation would be accomplished by planting a mixture of coniferous species and shrubs. The objectives for these plantings include: (1) Reforestation of lands suitable for timber production as soon as possible; (2) establishment of wildlife hiding cover and winter forage for moose at a faster rate than natural conditions would allow; and (3) increased diversity of plant species as the area recovers. Fourth, treatment of fuels would be accomplished by broadcast burn, grapple pile, and yarding of unmerchantable material. The objectives for these treatments include: (1) Reduction in fuel loadings to lower the potential of a secondary wildfire and reburn; (2) break up continuous fuels to assist in future wildfire containment; and (3) break up fuel concentrations that would prohibit wildlife movement in travel corridors.

Further delay in removal of the dead and damaged trees will render them unmerchantable as sawtimber, lack of reforestation and revegetation treatments will result in unacceptable delays affecting long-term timber yields, reduced effectiveness of wildlife and fisheries habitat, and increased potential for catastrophic wildfire that could affect adjacent areas. Due to the length of time required to develop an acceptable project and evaluate its environmental effects, the time remaining for accomplishment has become critical. Additional delays will result in further damage to presently undamaged resoures and would decrease the ability to recover timber and other resources affected by the Sylvanite Complex Fires.

To expedite this recovery of salvage timber and associated rehabilitation work, procedures outlined in 36 CFR part 217 are being followed. Under this Regulation the following may be exempt from appeal:

> Decisions related to rehabilitation of National Forest System Lands and recovery of forest resources resulting from natural disasters or other natural phenomena, such as, wildfires * * * when the Regional Forester * * * determines and gives notice in the **Federal Register** that good cause exists to exempt such decisions from review under this part.

Based upon the environmental analysis documented in the Fourth of July Fire Salvage EA and the Kootenai National Forest Supervisor's Decision Notice for this project, I have determined that good cause exists to exempt this decision from administrative review. Therefore, upon publication of this notice, this project will not be subject to review under 36 CFR part 217.

Dated: June 4, 1992.

John M. Hughes,

Deputy Regional Forester, Northern Region.

[FR Doc. 92-13576 Filed 6-9-92; 8:45 am]

BILLING CODE 3410-11-M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Tennessee Advisory Committee

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Tennessee Advisory Committee to the Commission will convene at 5 p.m. and adjourn at 7 p.m. on Thursday, June 25, 1992, and reconvene at 9 a.m. and adjourn at 5 p.m. on Friday, June 26th at the City Council Chambers, City Hall, 125 N. Mid-America Mall, Memphis, Tennessee 38103. The purpose of the meeting is to: (1) To discuss the status of the Commission and SACs; (2) to discuss civil rights progress and/or problems in the State; (3) to update the current project, Racial Tensions in Tennessee; and (4) to receive information from community leaders and others on racial tensions in Memphis.

Persons desiring additional information, or planning a presentation to the Committee should contact Bobby D. Doctor, Regional Director, Southern Regional Office of the U.S. Commission on Civil Rights at (404/730-2476, TDD 404/730-2481). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Southern Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, June 2, 1992.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 92-13539 Filed 6-9-92; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 59-91]

Foreign-Trade Zone 110A—Albuquerque, NM, Application for Expansion; Adria-SP, Inc., Pharmaceutical Products Plant; Amendment of Application

The pending application of the City of Albuquerque, New Mexico, grantee of FTZ 110, which requests an expansion of subzone status at the pharmaceutical plant of Adria-SP, Inc., Albuquerque (Subzone 110A), has been further amended. The application, which was filed in October 1991 (Docket 59-91, 56 FR 56054, 10/13/91) and amended in March 1992 (57 FR 8630, 3/11/92), requests extension of the scope of manufacturing authority and expansion of the subzone boundaries to include the entire manufacturing facility and a portion of the company's warehouse at 3700 Osuna Road, Albuquerque. This amendment expands the request regarding the subzone boundaries to include the entire warehouse facility (51,000 sq. ft.) on Osuna Road and two auxillary sites—Adria's packaging facility (4,200 sq. ft.) at 4221-B Balloon Park Road, Albuquerque, and its research facility (13,500 sq. ft.) at 4200 Balloon Park Road, Albuquerque. The application remains otherwise unchanged.

The comment period is reopened until July 2, 1992.

The application and amended material are available for public inspection at the following locations:

U.S. Department of Commerce, District Office, 625 Silver Street SW., 3rd FL, Albuquerque, NM

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, room 3716, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Dated: June 4, 1992.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 92-13647 Filed 6-9-92; 8:45 am]

BILLING CODE 3510-DS-M

[Order No. 577]

Resolution and Order Approving the Application of the Triangle J Council of Governments for Special-Purpose Subzone Status at the Mallinckrodt Medical, Inc., Plant (Pharmaceuticals) Wake County, NC

Proceedings of the Foreign-Tade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Triangle J Council of Governments, grantee of Foreign-Trade Zone 93, filed with the Foreign-Trade Zones Board (the Board) on February 27, 1991, requesting special-purpose subzone status at the pharmaceutical manufacturing plant of Mallinckrodt Medical, Inc., in Wake County, North Carolina (Raleigh/Durham, North Carolina area), the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

The approval is subject to the FTZ Act and the FTZ Board's regulations (as revised, 56 FR 50790–50808, 10–8–91), including Section 400.28. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority for Subzone Status; Mallinckrodt Medical, Inc., Plant, Wake County, North Carolina

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the Triangle J Council of Governments, Grantee of Foreign-Trade Zone No. 93, has made application (filed 2–27–91, FTZ Docket 12–91, 56 FR 10233, 3–11–91) to the Board for authority to establish a special-purpose subzone at the pharmaceutical manufacturing plant of Mallinckrodt Medical, Inc., in Wake County, North Carolina;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations are satisfied and that the proposal is in the public interest;

Now, Therefore, the Board hereby authorizes the establishment of a subzone at the Mallinckrodt Medical, Inc., plant in Wake County, North Carolina (designated on the records of the Board as Foreign-Trade Subzone 93A), at the location described in the application, subject to the FTZ Act and the Board's regulations (as revised 56 FR 50790–50808, 10–8–91), including Section 400.28 (IBM subzone, Raleigh, NC area, Board Order 568, 57 FR 20673, 5–14–92, is redesignated Subzone 93B).

Signed at Washington, DC, this 2nd day of June 1992, pursuant to Order of the Board.

Alan M. Dunn,

Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 92-13648 Filed 6-9-92; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

November 1992 Japan Official Development Assistance Conference in Tokyo

AGENCY: International Trade Administration, Commerce.

ACTION: Invitation to participate in conference.

SUMMARY: The Department of Commerce (the "Department") together with other U.S. government agencies invite you to participate in the Japan Official Development Assistance (ODA) conference convening on Monday, November 9, 1992. This conference is a direct result of the President's January 1992 trip to Japan and is a follow-on to the two successful A.I.D.-Department of Commerce sponsored ODA conferences held in Orlando, Florida and San Francisco, California in May 1989.

To date, the Department has tracked at least $125 million of U.S. success stories in a large variety of products and services for Japanese ODA. U.S. companies have only just begun to realize the potential for pursuing business ventures under the auspices of Japan's ODA. This conference will provide a fast track for accessing information on ODA's mechanics. Moreover, attending the conference will give clear signals to Japanese companies and the Japanese lending agencies of U.S. companies' keen interest and commitment to obtaining contracts. This conference will offer two levels of participation, full and partial, which are described in this notice.

Presentations at the conference will be designed to illuminate and make more transparent Japan's ODA processes and provide fundamental information to enable participants to access procurement through Japan's foreign aid program. The U.S. government will assist in making the conference more effective for U.S. participants by arranging for presentations, hospitality, luncheons and receptions and by preparing a conference booklet in which all participants will be listed. Pre-conference preparations will emphasize information that will facilitate the development of participant ODA strategies.

DATES: The conference will convene in Tokyo on Monday, November 9, with a pre-conference in Washington, DC September 15 for full participants. Request for full participation must be received by June 26, 1992. The Department will accept applications for partial participation up to September 25, 1992.

ADDRESSES: Requests to participate should be addressed to Robert Lurensky, Office of International Major Projects, room 2015–B, HCHB, Department of Commerce, Washington, DC 20230. Telephone: (202) 377–4002. Facsimile: (202) 377–0316.

FOR FURTHER INFORMATION CONTACT: Elizabeth Johns, Office of Japan, room 2318, HCHB, Department of Commerce,

Washington, DC 20230. Telephone: (202) 377–4527. Facsimile: (202) 377–0469.

SUPPLEMENTARY INFORMATION: The Department invites U.S. companies to participate in a conference to convene in Tokyo on Monday, November 9, 1992, to develop business opportunities between U.S. and Japanese companies through Japan's official development assistance (ODA). Sponsored by the Government of the United States, the conference will focus specifically on the mechanics of Japan's official development assistance (ODA) program and upon bringing U.S. and Japanese firms together in a joint effort to help the peoples of the less developed countries (LDCs).

Background

There are two levels of conference participation, full and partial, and will be priced accordingly. Since the number of full participation registrants will be limited to 25 companies, and more than that number are expected to request participation, the Department has established criteria to determine which companies will be selected. These criteria are listed in the section below.

Full participation, based on selection by the Department and limited to company principals only, will include, in addition to attendance at the main conference in November, a pre-conference briefing in Washington, DC in September and pre-arranged meetings with similar Japanese firms in Tokyo. Partial participation will be limited to attendance at the plenary sessions of the conference in Tokyo and is open to any U.S. firm.

Registration costs of full participation are initially estimated to be $2,500 per company representative (a maximum of two per company). Partial participation will cost $1,000 per company representative and will include hospitality and conference costs.

A firm's participation in the conference should be part of a demonstrated long-term commitment to entering Japanese foreign aid funded projects. The conference goals do not include signing of contracts, but will afford an opportunity for qualified U.S. firms to promote themselves with Japanese corporate leaders in project planning worldwide.

Requests for full participation should be accompanied by information already compiled and maintained by requesters in the normal course of their activities such as the latest annual report and a company prospectus.

Selection Criteria

In selecting companies to participate in the ODA conference as a full participant, the Department will apply the following criteria:

Category I Company With Products or Services in the Following Sectors: Telecommunications, Power and the Environment

—The environment sector includes, but is not limited to, solid and liquid waste, water supply and treatment, renewable energy, industrial pollution, hazardous waste, clean and efficient energy/manufacturing systems and power plant cleanup.

Category II Company Which, at the Minimum, Meets One of the Following Criteria

(1) Is well established and financially solvent, with at least fifteen years in its industry;

(2) Has an established resident office in Japan for the purpose of either doing business in Japan or in developing countries through Japan's ODA; or.

(3) Has developed markets in Pacific Rim.

Category III Company Which has Demonstrated a Long-term Commitment to Entering Japanese Aid-Funded Projects by One of the Following

(1) Attending one of the two A.I.D. conferences convened in Orlando and San Francisco in 1989; or

(2) Registering on the Department of Commerce Japan ODA database before April 30, 1992; or

(3) Invested resources in an attempt to obtain Japan's ODA business and/or previously obtained an award of business through Japan's ODA.

Category IV Company Which Meets Most of the Following Characteristics (Listed in Priority Order)

(1) Has products/services that will make a contribution to developing countries.

(2) Is a well known technological leader in its field with recognized and demonstrated competence;

(3) Has experience in exporting;

(4) Has a regional intelligence and distribution network;

(5) Has some familiarity/contact with Japanese companies and with Japanese business practices.

Description of Participation Levels

Partial

Cost: $1,000 per person

Conference in Tokyo, Japan—November 9–11, 1992.

• Plenary program including:

—Pre-conference briefing on November 9;

—Two-day program which will include Government of Japan (GOJ) and Japanese private sector presentations to make more clear the operations and procedures of Japan's official development assistance (ODA);

—Briefing book;

—Bilingual inclusion of company name, address, and contact point (with telephone and facsimile number) in conference brochure;

—Luncheons and receptions.

• Open to any U.S. firm.

Full

Cost: $2,500 per person.

In addition to plenary program described above:

• Pre-conference in Washington, DC—September 15, 1992.

—Full-day program at which D.C.-based Government of Japan (GOJ) speakers will provide information on the operations and services of the Washington offices of the Japan International Cooperation Agency (JICA), the Overseas Economic Cooperation Fund (OECF), and the Export-Import Bank of Japan. U.S. Government officials will provide information on services provided by the U.S. Department of Commerce, the Trade and Development Program, and the Export-Import Bank of the United States. They will also discuss new initiatives that will help U.S. companies to develop ODA strategies.

• One-page company profile in English and Japanese listed in the conference brochure to be widely distributed to GOJ and ODA companies;

• On November 12, 1992, prearranged meetings in Tokyo with appropriate Japanese firms, including trading companies;

• Limited to a maximum of 25 companies, to be selected based on established criteria.

Request for Participation

To assist in preliminary planning, we ask that you mail an indication of interest by June 26 to Robert Lurensky, room 2015–B, HCHB, U.S. Department of Commerce, Washington, DC 20230 (or by facsimile 202–377–0316). Along with your request for participation, please also provide the following information: Your company name and address, appropriate contact person, telephone and facsimile numbers, and state the level or your participation interest, full participation or the Tokyo plenary sessions only. Requests for full participation should be accompanied by information already compiled and maintained by requesters in the normal

course of their activities such as the latest annual report and a company prospectus.

Dated: June 5, 1992.

Marjory E. Searing,

Deputy Assistant Secretary for Japan.

[FR Doc. 92-13649 Filed 6-9-92; 8:45 am]

BILLING CODE 3510-DA-M

National Oceanic and Atmospheric Administration

Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Issuance of Scientific Research Permit (P771#61).

On April 7, 1992, notice was published in the **Federal Register** (57 FR 11708) that an application had been filed by the National Marine Fisheries Service's National Marine Mammal Laboratory, 7600 Sand Point Way, NE, BIN C15700, Seattle, WA 98115-0070 for permits to take California sea lions (*Zalophus californianus*) for purposes of scientific research. Application P771#61 proposed research to evaluate the immune system competence of free-ranging California sea lions to determine if high levels of organochlorine pollutants (DDT and PCB's) are associated with immunosuppression. This study is part of a comprehensive Injury Determination Study for the Southern California Damage Assessment.

Notice is hereby given that on May 28, 1992, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a permit for the above taking subject to certain conditions set forth in the permit.

The permit and associated documents are available for review, by appointment, in the following offices:

Office of Protected Resources, National Marine Fisheries Service, NOAA, 1335 East-West Hwy., room 7324, Silver Spring, MD 20910 (301/713-2289);

Director, Southwest Region, National Marine Fisheries Service, NOAA, 501 W. Ocean Blvd., suite 4200, Long Beach, CA 90801-4213 (310/980-4016); and

Director, Alaska Region, National Marine Fisheries Service, NOAA, Federal Annex, 9109 Mendenhall Mall Road, suite 6, Juneau, AK 99802.

Dated: June 3, 1992.

Charles Karnella,

Acting Director, Office of Protected Resources.

[FR Doc. 89-13557 Filed 6-9-89; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits and Amendment of Visa Requirements for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Indonesia

June 5, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits for the new agreement year and amending visa requirements.

EFFECTIVE DATE: July 1, 1992.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 535-9480. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

In recent consultations, the Governments of the United States and Indonesia agreed to amend their current bilateral agreement for two consecutive one-year periods beginning on July 1, 1992 and extending through June 30, 1994.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish limits for the period which begins on July 1, 1992 and extends through June 30, 1993. Also, the existing visa requirements are being amended.

A copy of the current bilateral agreement is available from the Textiles Division, Bureau of Economic and Business Affairs, U.S. Department of State (202) 647-3889.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 56 FR 60101, published on November 27, 1991). Also see 52 FR 20134, published on May 29, 1987.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 5, 1992.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1991; pursuant to the Bilateral Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Agreement, effected by exchange of notes dated September 25 and October 3, 1985, as amended and extended, between the Governments of the United States and Indonesia; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on July 1, 1992, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in Indonesia and exported during the twelve-month period beginning on July 1, 1992 and extending through June 30, 1993, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Levels in Group I	
219	6,426,190 square meters.
225	4,500,000 square meters.
300/301	2,750,000 kilograms.
313	11,660,257 square meters.
314	40,714,695 square meters.
315	18,500,000 square meters.
317/617/326	17,868,332 square meters of which not more than 2,640,240 square meters shall be in Category 326.
331/631	1,640,863 dozen pairs.
334/335	150,363 dozen.
336/636	400,000 dozen.
338/339	812,000 dozen.
340/640	1,000,000 dozen.
341	601,452 dozen.
342/642	250,000 dozen.
345	290,796 dozen.
347/348	1,100,000 dozen.
351/651	325,000 dozen.

Category	Twelve-month restraint limit
359–C/659–C [a]	950,000 kilograms.
359–S/659–S [b]	1,000,000 kilograms.
369–S [c]	613,842 kilograms.
443	80,000 numbers.
445/446	53,607 dozen.
604–A [d]	477,429 kilograms.
600	750,000 kilograms.
611	4,240,296 square meters.
613/614/615	16,950,000 square meters.
618	4,000,000 square meters.
619/620	6,200,000 square meters of which not more than 6,000,000 square meters shall be in Category 619.
625/626/627/628/629.	18,971,705 square meters.
634/635	200,000 dozen.
638/639	1,040,000 dozen.
641	1,524,702 dozen.
645/646	526,271 dozen.
647/648	2,180,265 dozen.
669–P [e]	1,000,000 kilograms.
670–L [f]	1,000,000 kilograms.
847	275,471 dozen.
Group II	
200, 201, 218, 220, 222-224, 226, 227, 229, 237, 239, 330, 332, 333, 349, 350, 352–354, 359–O [g], 360–363, 369–O [h], 400, 410, 414, 431, 432, 433, 434, 435, 436, 438, 439, 440, 442, 444, 447, 448, 459, 464, 465, 469, 603, 604–O [i], 606, 607, 621, 622, 624, 630, 632, 633, 643, 644, 649, 650, 652–654, 659–O [j], 665, 666, 669–O [k], 670–O [l], 831–836, 838, 839, 840, 842–846, 850–852, 858 and 859, as a group.	62,000,000 square meters equivalent.
Subgroup in Group II	
400, 410, 414, 431, 432, 433, 434, 435, 436, 438, 439, 440, 442, 444, 447, 448, 459, 464, 465 and 469, as a group.	2,400,000 square meters equivalent.

[a] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.3034, 6104.62.1020, 6104.69.3010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.3038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.3014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.4015, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[b] Category 359–S: only HTS numbers 6112.39.0010, 6112.49.0010, 6211.11.2010, 6211.11.2020, 6211.12.3003 and 6211.12.3005; Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[c] Category 369–S: only HTS number 6307.10.2005.

[d] Category 604–A: only HTS number 5509.32.0000.

[e] Category 669–P: only HTS numbers 6305.31.0010, 6305.31.0020 and 6305.39.0000.

[f] Category 670–L: only HTS numbers 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9020.

[g] Category 359–O: all HTS numbers except 6103.42.2025, 6103.49.3034, 6104.62.1020, 6104.69.3010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025; 6211.42.0010 (Category 359–C); 6112.39.0010, 6112.49.0010, 6211.11.2010, 6211.11.2020, 6211.12.3003 and 6211.12.3005 (Category 359–S).

[h] Category 369–O: all HTS numbers except 6307.10.2005 (Category 369–S).

[i] Category 604–O: all HTS numbers except 5509.32.0000 (Category 604–A)

[j] Category 659–O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.3038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.3014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.4015, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659–C); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020 (Category 659–S).

[k] Category 669–O: all HTS numbers except 6305.31.0010, 6305.31.0020 and 6305.39.0000 (Category 669–P).

[l] Category 670–O: all HTS numbers except 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9020 (Category 670–L).

Imports charged to these category limits for the periods July 1, 1991 through June 30, 1992; and October 1, 1991 through June 30, 1992 (Category 443) shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for those periods have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the current bilateral agreement between the Governments of the United States and Indonesia.

For visa purposes, you are directed, effective on July 1, 1992, to amend further the directive dated May 19, 1987, to include the following part and merged categories for goods exported on or after July 1, 1992:

Part-Categories

359–C—Cotton coveralls and overalls—only HTS numbers 6103.42.2025, 6103.49.3034, 6104.62.1020, 6104.69.3010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010.

359–S—Cotton swimwear—only HTS numbers 6112.39.0010, 6112.49.0010, 6211.11.2010, 6211.11.2020, 6211.12.3003 and 6211.12.3005 (Category 359–S).

359–O—Other—all remaining HTS numbers in Category 359.

659–C—Man-made fiber coveralls and overalls—only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.3038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.3014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.4015, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

659–S—Man-made fiber swimwear—only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

659–O—Other—all remaining HTS numbers in Category 659.

669–P—Man-made fiber bags—only HTS numbers 6305.31.0010, 6305.31.0020 and 6305.39.0000.

669–O—Other—all remaining HTS numbers in Category 669.

670–L—Luggage—only HTS numbers 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9020.

670–O—Other—all remaining HTS numbers in Category 670.

Merged Category

300/301
331/631
340/640
359–C/659–C
359–S/659–S
634/635
647/648

Merchandise in the aforementioned merged categories may be accompanied by either the appropriate merged category visa or the correct category or part-category visa corresponding to the actual shipment.

Effective on July 1, 1992, a visa shall no longer be required for dish towels visaed as 369–D [1], which are produced or manufactured in Indonesia and exported from Indonesia on and after July 1, 1992. Consequently, dish towels currently visaed as 369–D shall require a 369–O (excluding shop towels) [2] visa.

You are directed to permit entry of dish towels, produced or manufactured in Indonesia and exported from Indonesia during the period July 1, 1992 through July 31, 1992 which are visaed either as Category 369–D or 369–O. Dish towels produced or manufactured in Indonesia and exported from Indonesia on and after August 1, 1992 which are visaed as 369–D shall be denied entry and a new 369–O visa must be obtained.

Shipments entered or withdrawn from warehouse according to this directive which are not accompanied by an appropriate export visa shall be denied entry and a new visa must be obtained.

In carrying out the above directions, the Commissioner of Customs should construe

[1] Category 369–D: only HTS numbers 6302.60.0010, 6302.91.0005 and 6302.91.0045.

[2] Category 369–O: all HTS numbers except 6307.10.2005 (Category 369–S).

entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92–13651 Filed 6–9–92; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in Macau

June 5, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing limits.

EFFECTIVE DATE: June 12, 1992.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343–6495. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being reduced for carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 56 FR 60101, published on November 27, 1991). Also see 56 FR 56506, published on November 5, 1991.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 5, 1992.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 29, 1991, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Macau and exported during the twelve-month period which began on January 1, 1992 and extends through December 31, 1992.

Effective on June 12, 1992, you are directed to amend the directive dated October 29, 1991 to reduce the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and Macau:

Category	Adjusted twelve-month limit [1]
Sublevels in Group I	
338	234,893 dozen.
340	219,538 dozen.
641/840	149,047 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1991.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92–13652 Filed 6–9–92; 8:45 am]

BILLING CODE 3510–DR–F

Amendment of Export Visa Requirements for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Turkey; Correction

June 5, 1992.

In the notice published in the **Federal Register** on May 27, 1992 (57 FR 22211), 3rd column, under the heading "Supplementary Information," change the last sentence of the 2nd paragraph to read as follows: "For goods exported on or after July 1, 1992 without the M.I.D. on the export visa document, a new visa containing this information must be obtained."

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92–13650 Filed 6–9–92; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0095; FAR Case 89–29]

OMB Clearance Request for Commerce Patent Regulations

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0095).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request for an extension of a currently approved information collection requirement concerning FAR 27.3, Commerce Patent Regulations, Public Law 98–620.

DATES: Comments may be submitted on or before August 10, 1992.

ADDRESSES: Send comments to Mr. Peter Weiss, FAR Desk Officer, OMB, Room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Beverly Fayson, Office of Federal Acquisition Policy, GSA (202) 501–4755.

SUPPLEMENTARY INFORMATION:

A. Purpose

As a result of the Department of Commerce (Commerce) publishing a final rule in the **Federal Register** implementing Public Law 98–620 (52 FR 8552 March 18, 1987), a revision to FAR 27.3 to implement the Commerce regulation in the FAR was published in the **Federal Register** as an interim rule on June 12, 1989 (54 FR 25060).

A Government contractor must report all subject inventions to the contracting officer, submit a disclosure of the invention, and identify any publication, or sale, or public use of the invention (52.227–11(c), 52.228–12(c), and 52.227–13(e)(2)). Contractors are required to submit periodic or interim and final reports listing subject inventions (27.303(a); 27.304–1(e)(1)(i) and (ii); 27;204–1(e)(2)(i) and (ii); 52.227–12(f)(7); 52.227–14(e)(3)). In order to ensure that subject inventions are reported, the contractor is required to establish and maintain effective procedures for identifying and disclosing subject inventions (52.227–11, Alternate IV; 52.227–12(f)(5); 52.227–13(e)(1)). In addition, the contractor must require his employees, by written agreements, to

disclose subject inventions (52.227–11(f)(2); 52.227–12(f)(2); 52.227–13(e)(4)). The contractor also has an obligation to utilize the subject invention, and agree to report, upon request, the utilization or efforts to utilize the subject invention (27.302(e); 52.227–11(h); 52.227–12(h)).

B Annual Reporting Burden

The annual reporting burden is estimated as follows: Respondents, 1,200; responses per respondent, 9.75; total annual responses, 11,700; preparation hours per response, 3.9; and total response burden hours, 45,630.

Obtaining Copies of Proposals

Requester may obtain copies of OMB applications or justifications from the General Services Administration, FAR Secretariat (VRS), room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0095, Commerce Patent Regulations, in all correspondence.

Dated: June 2, 1992.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 92–13537 Filed 6–9–92; 8:45 am]

BILLING CODE 6820–JC–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Engineering in the Manufacturing Process

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Engineering in the Manufacturing Process will meet in closed session on June 25–26, 1992 at the Institute for Defense Analyses, Alexandria, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Director, Defense Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will identify manufacturing technologies and engineering methods that can meet the Department's future needs for fieldable prototypes, rapid transition to production on demand, and economic low volume manufacturing.

In accordance with section 10(d) fo the Federal Advisory Committee Act, Public Law No. 92–463, as amended (5 U.S.C. app. II (1988)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

Dated: June 5, 1992.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–13598 Filed 6–9–92; 8:45 am]

BILLING CODE 3810–01–M

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: Request for Verification of birth; DD Form 372; OMB Control Number 0704–0006.

Type of Request: Reinstatement.

Average Burden Hours/Minutes per Response: .083 hour.

Responses per Respondent: 1.

Number of Respondents: 150,000.

Annual Responses: 150,000.

Annual Burden Hours (Including Recordkeeping): 12,450.

Needs and Uses: In accordance with 10 U.S.C. 505, 3253, 5013, and 8253, applicants must meet minimum and maximum age standards and citizenship requirements for enlistment in the Armed Services and Coast Guard. If an applicant is unable to provide a birth certificate, the DD Form 372 is dispatched to the respective state or local agencies; e.g., Bureau of Vital Statistics.

Affected Public: State or local governments.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia 22202–4302.

Dated: June 5, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–13599 Filed 6–9–92; 8:45 am]

BILLING CODE 3810–01–M

Department of the Air Force

Active Duty Service Determinations for Civilian or Contractual Groups

On May 14, 1992, the Secretary of the Air Force approved an addendum to an April 8, 1991 Secretarial decision determining the service of the group known as the "Civilian Crewmen of United States Coast and Geodetic Survey vessels who performed their service in areas of immediate military hazard while conducting cooperative operations with and for the United States Armed Forces within a time frame of December 7, 1941, to August 15, 1945" would be considered "active duty" under the provisions of Public Law 95–202 and be eligible for benefits according to all laws administered by the Department of Veterans Affairs.

The new paragraph 1 of the April 8, 1991 eligibility criteria includes three ships which were omitted (OCEANOGRAPHER, HYDROGRAPHER, and PATHFINDER).The new paragraph should read as follows:

1. Must have been a civilian employee of the United States Coast and Geodetic Survey and served as a crewman aboard one or more of the following USCGS vessels: Derickson; Explorer; Gilbert; Hilgard; E. Lester Jones; Lydonia; Patton; Surveyor; Wainwright; Westdahl; Oceanographer; Hydrographer; or Pathfinder.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 92–13592 Filed 6–9–92; 8:45 am]

BILLING CODE 3910–01–M

Privacy Act of 1974; Delete and Amend Systems of Records

AGENCY: Department of the Air Force, DOD.

ACTION: Delete and amend systems of records.

SUMMARY: The Department of the Air Force proposes to delete five and amend 16 existing systems of records in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The deleted systems are effective immediately June 10, 1992.

The amended systems will be effective July 10, 1992, unless comments are received which result in a contrary determination.

ADDRESS: Send any comments to the Air Force Access Programs Manager, SAF/AAIA, The Pentagon, Washington, DC 20330–1000.

FOR FURTHER INFORMATION CONTACT: Mr. James H. Gibson at (703) 697–3491 or DSN 227–3491.

SUPPLEMENTARY INFORMATION: The Department of the Air Force record systems notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** as follows:

50 FR 22332, May 29, 1985 (DOD Compilation, changes follow)
50 FR 24672, Jun. 12, 1985
50 FR 25737, Jun. 21, 1985
50 FR 46477, Nov. 8, 1985
50 FR 50337, Dec. 10, 1985
51 FR 4531, Feb. 5, 1986
51 FR 7317, Mar. 5, 1986
51 FR 16735, May 6, 1986
51 FR 18927, May 23, 1986
51 FR 41382, Nov. 14, 1986
51 FR 44332, Dec. 9, 1986
52 FR 11845, Apr. 13, 1987
53 FR 24354, Jun. 28, 1988
53 FR 45800, Nov. 14, 1988
53 FR 50072, Dec. 13, 1988
53 FR 51301, Dec. 21, 1988
54 FR 10034, Mar. 9, 1989
54 FR 43450, Oct. 25, 1989
54 FR 47550, Nov. 15, 1989
55 FR 21770, May 29, 1990
55 FR 21900, May 30, 1990 (Air Force Address Directory)
55 FR 27868, Jul. 6, 1990
55 FR 28427, Jul. 11, 1990
55 FR 34310, Aug 22, 1990
55 FR 38126, Sep. 17, 1990
55 FR 42625, Oct. 22, 1990
55 FR 52072, Dec. 19, 1990
56 FR 1990, Jan. 18, 1991
56 FR 5804, Feb. 13, 1991
56 FR 12713, Mar. 27, 1991
56 FR 23054, May 20, 1991
56 FR 23876, May 24, 1991
56 FR 26800, Jun. 11, 1991
56 FR 31394, Jul. 10, 1991 (Air Force Index Guide)
56 FR 32181, Jul. 15, 1991 (Air Force Systems Identification)
56 FR 63718, Dec. 5, 1991
57 FR 1907, Jan. 16, 1992

The deleted and amended systems are not within the purview of subsection (r) of the Privacy Act (5 U.S.C. 552a), as amended, which requires the submission of an altered system report. The specific changes to the systems of records being amended are set forth below, followed by the systems of records notices published in their entirety.

Dated: May 22, 1992.

L. M. Bynum,

Alternate OSD Federal Register Liaison Office, Department of Defense.

DELETIONS

F030 AFSC A

SYSTEM NAME: Field Management Center (FMC) Personnel Data (50 FR 22365, May 29, 1985).

Reason: System is no longer needed. There are no plans to reinstate it in the future.

F030 SAC A

SYSTEM NAME: Automated Command and Control Executive Support System (51 FR 44332, December 9, 1986).

Reason: System is no longer needed. There are no plans to reinstate it in the future.

F035 ATC A

SYSTEM NAME: Officer Training School Resource Management System School Staff (50 FR 22400, May 29, 1985).

Reason: System is no longer needed. There are no plans to reinstate it in the future.

F050 ATC D

SYSTEM NAME: Individual Academic Records - Survival Training Students (50 FR 22449, May 29, 1985).

Reason: System is no longer needed. There are no plans to reinstate it in the future.

F050 ATC J

SYSTEM NAME: Branch Level Training Management System (BLTMS) (51 FR 44332, December 9, 1986).

Reason: System is no longer needed. There are no plans to reinstate it in the future.

AMENDMENTS

F030 ATC A

SYSTEM NAME:

Drug Abuse Control Case Files (50 FR 22367, May 29, 1985).

CHANGES:

SYSTEM IDENTIFICATION NUMBER:

Change system identification number to "F035 ATC J".

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "10 U.S.C. 8013, Secretary of the Air Force: powers and duties; delegation by; Air Force Regulation 39–10, Administration Separation of Airman, and Air Force Regulation 30–2, Social Actions Program."

* * * * *

SAFEGUARDS:

Delete entry and replace with "Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software."

RETENTION AND DISPOSAL:

Delete entry and replace with "Retained in office files for one year after annual cutoff, then destroy by tearing into pieces, shredding, pulping, macerating, or burning."

* * * * *

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Air Force rules for accessing records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager."

* * * * *

F035 ATC J

SYSTEM NAME:

Drug Abuse Control Case Files.

SYSTEM LOCATION:

Special Counseling Section, 3507 Airman Classification Squadron, Lackland Air Force Base, TX 78236–5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty enlisted personnel and Reserve personnel referred to drug abuse office.

CATEGORIES OF RECORDS IN THE SYSTEM:

Various letters describing drug abuse information such as notification of disposition, recommendation for disposition, drug abuse determination of urinalysis cases.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force: Powers and duties delegation by; Air Force Regulation 39–10, Administration Separation of Airman, and Air Force Regulation 30–2, Social Actions Program.

PURPOSE(S):

Discharge authority, Special Counseling Section, and squadron commanders determine extent of prior service drug abuse and make determinations of discharge or retention in the Air Force.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of systems of records notices apply to this system.

Note: Records of identity, diagnosis, prognosis or treatment of any client/patient, irrespective of whether or when he/she ceases to be a client/patient, maintained in connection with the performance of any alcohol/drug abuse, family advocacy, AIDS, or sickle cell prevention and treatment function conducted, requested, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided herein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd–3, 290ee–3, and 21 U.S.C. 1175. These statutes take precedence over the Privacy Act of 1974 in regard to accessibility of such records except to the individual to whom the record pertains. The Department of the Air Force "Blanket Routine Uses" do not apply to these types of records."

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Retrieved by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets.

RETENTION AND DISPOSAL:

Retained in office files for one year after annual cutoff, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, 3507 Airman Classification Squadron, Lackland Air Force Base, TX 78236–5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address written inquiries to the Commander, 3507 Airman Classification Squadron, Lackland Air Force Base, TX 78236–5000.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Commander, 3507 Airman Classification Squadron, Lackland Air Force Base, TX 78236–5000.

CONTESTING RECORD PROCEDURES:

The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from squadron commanders, base surgeons, classification interviewers, medical institutions and from source documents such as reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F030 ATC C

SYSTEM NAME:

Processing and Classification of Enlistees (PACE) (50 FR 22367, May 29, 1985).

CHANGES:

SYSTEM IDENTIFICATION NUMBER:

Change system identification number to "F035 ATC K".

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Change "10 U.S.C. 8012" to "10 U.S.C. 8013," and delete the word "Regulation" from end of paragraph.

PURPOSE(S):

In first sentence insert the word "Military" between the words "Level and Personnel". In third sentence insert the word "Unit" between the words "Joint and Military."

* * * * *

STORAGE:

Delete entry and replace with "Maintained in computers and on computer output products."

SAFEGUARDS:

Delete entry and replace with "Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software."

RETENTION AND DISPOSAL:

Add to end of entry "History file is destroyed when no longer needed. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "3507 Airman Classification Squadron (ATC), Lackland AFB, TX 78236–5000."

* * * * *

F035 ATC K

SYSTEM NAME:

Processing and Classification of Enlistees (PACE).

SYSTEM LOCATION:

Air Training Command (ATC), Randolph AFB, TX 78150–5000, input/output remotes at 3507 Airman Classification Squadron (ATC), Lackland AFB, TX 78236–5000 and HQ USAF Recruiting Service (ATC), Randolph AFB, TX 78150–5421.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty enlisted personnel. Attached records for Air National Guard and Air Force reserve personnel attending basic military training and Officer Training School. Active duty enlisted personnel attending Officer Training School in TDY status.

CATEGORIES OF RECORDS IN THE SYSTEM:

Airmen trainee records containing name, Social Security Number, and other personal data for assignment from basic military training, security investigation, job preferences, dependent data, education, test scores, grade and promotions, biographical history, physical data, drug abuse history, enlistment personnel and guaranteed training enlistee program data, separation information, classification data, service dates, and basic training flight, squadron, entry and graduation dates.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force: Powers and duties; delegation by; Executive Order 9397; and Air Force Regulation 39–1, Airman Classification.

PURPOSE(S):

To create an initial record for the Base Level Military Personnel Data System (BLMPS); to provide Air Force Military Personnel Center (AFMPC) with initial accession information on non-prior service enlistees; provide for improved classification and assignment procedures using computer processes; provide necessary information to Joint Unit Military Pay System (JUMPS) and Lackland Entering Pay System (LEAPS) for establishment of military pay records; interface the data ring process to the maximum extent with other functional areas; and to standardize and simplify personnel processing for the 3700 Personnel Processing Group (ATC), Lackland AFB, TX, so that they may more effectively control record preparation, processing, and classification actions necessary to transition civilian enlistees to military status. Aptitude tests are administered; biographical history and job and assignment preferences are collected; and personal data is collected from enlistment records to establish a mechanized record necessary to support classification and assignment of trainees. Accession and update data is furnished through automatic interface to the advanced Personnel Data System (PDS) at AFMPC and Air Training Command, Randolph AFB, TX; to JUMPS at Defense Accounting and Finance Center, Denver, CO, and to LEAPS at accounting and finance, Lackland AFB, TX. History records are furnished monthly to the Human Resources Laboratory, Personnel Research Division (HRLPRD) Brooks AFB, TX, for statistical analysis and to HQ USAF Recruiting Service/RSO, Randolph AFB, TX, for use in the enlistee quality control monitoring system. Data is used to prepare forms, processing schedules, reassignment and promotion orders, classification actions, transaction and error rosters, autodin lists, and management products necessary to administer trainees while at Lackland AFB, TX. Standard BLMPS products such as JUMPS transaction registers, strength balance reports, and suspense lists are prepared. Changes in basic data, promotions, reassignments, separations, and duty status changes are reported to PDS, JUMPS, and LEAPS as the action occurs. History records used at HRLPRD and the enlistee quality control monitoring system are augmented by additional data from PDS and technical training centers and are used to evaluate the quality of airmen enlisted in the USAF and the effects of changes in procurement and classification policies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in computers and on computer output products.

RETRIEVABILITY:

Retrieved by name or Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

Records for basic trainees are retained in active file until departure from basic military training is confirmed then transferred to history file on magnetic tape for one year. Records for Officer trainees are maintained in the active file until end of fiscal year in which they enter training and then transferred to history file on magnetic tape for one year. History file is destroyed when no longer needed. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

3507 Airman Classification Squadron (ATC), Lackland AFB, TX 78236–5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address written inquiries to the 3507 Airman Classification Squadron (ATC), Lackland AFB, TX 78236–5000.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the 3507 Airman Classification Squadron (ATC), Lackland AFB, TX 78236–5000.

CONTESTING RECORD PROCEDURES:

The Department of the Air Force rules for accessing records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR Part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from automated system interfaces, from source documents such as reports, and from forms prepared during enlistment processing and completed during interviews and testing at 3507 Airman Classification Squadron.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F035 ATC C

SYSTEM NAME:

Air Force Reserve Officer Training Corps (AFROTC) Qualifying Test Scoring System (50 FR 22402, May 29, 1985).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with "AFROTC/RRFA, Maxwell Air Force Base, AL 36112–6663, and portions pertaining to each AFROTC detachment located at the respective detachment. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices. Air Force Human Resources Laboratory, Brooks Air Force Base, TX 78235–5601 is official repository for permanent record of all Air Force Officer Qualifying Test Scores."

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Change "10 U.S.C. 8012" to "10 U.S.C. 8013," and add "and Executive Order 9397" to end of entry.

PURPOSE(S):

Delete first sentence and replace with "Scores are used to evaluate applicants against criteria for entrance into AFROTC, and as a measure of quality."

* * * * *

RETRIEVABILITY:

Delete entry and replace with "Retrieved by name and Social Security Number, location of test administration and date of testing."

SAFEGUARDS:

Delete entry and replace with "Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software."

RETENTION AND DISPOSAL:

Delete entry and replace with "HQ AFROTC/RRAF will maintain records of scores attained on tests administered at AFROTC detachments for a period of four years or when no longer needed for research. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Chief, Cadet Appointments and Special Actions Branch, HQ AFROTC/RRFA, Maxwell Air Force Base, AL 36112–6663."

* * * * *

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager."

* * * * *

F035 ATC C

SYSTEM NAME:

Air Force Reserve Officer Training Corps (AFROTC) Qualifying Test Scoring System.

SYSTEM LOCATION:

HQ AFROTC/RRFA, Maxwell Air Force Base, AL 36112–6663, and portions pertaining to each AFROTC detachment located at the respective detachment. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices. Air Force Human Resources Laboratory, Brooks Air Force Base, TX 78235–5601 is official repository for permanent record of all Air Force Officer Qualifying Test scores.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force applicants testing at Air Force detachments.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, detachment, date of test, test scores, Social Security Number, air science year, number of test administrations, institution category, race, sex, marital status, education level, and program applying for.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. Chapter 103, Senior Reserve Officers' Training Corps; Military Selective Service Act of 1967, Section 6, (50 U.S.C. 456); 10 U.S.C. 8013, Secretary of the Air Force: Powers and duties; delegation by; and Air Force Regulation 45–48, Air Force Reserve Officer Training Corps (AFROTC), and Executive Order 9397.

PURPOSE(S):

Scores are used to evaluate applicants against criteria for entrance into AFROTC, and as a measure of quality. Scores are entered in cadet records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, visible file binders/cabinets, in computers and on computer output products.

RETRIEVABILITY:

Retrieved by name and Social Security Number, location of test administration and date of testing.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

HQ AFROTC/RRAF will maintain records of scores attained on tests administered at AFROTC detachments for a period of four years or when no longer needed for research. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Cadet Appointments and Special Actions Branch, HQ AFROTC/RRFA, Maxwell Air Force Base, AL 36112–6663.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address written inquiries to the Chief, Cadet Appointments and Special Actions Branch, HQ AFROTC/RRFA, Maxwell Air Force Base, AL 36112–6663 or to agency officials at detachment of assignment. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

Requests should include full name, Social Security Number, location of test administration, and date of testing.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Chief, Cadet Appointments and Special Actions Branch, HQ AFROTC/RRFA, Maxwell Air Force Base, AL 36112–6663 or to agency officials at detachment of assignment. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

Requests should include full name, Social Security Number, location of test administration, and date of testing.

CONTESTING RECORD PROCEDURES:

The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual's knowledge of subject being tested.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F035 ATC D

SYSTEM NAME:

Basic Trainee Interview Record (50 FR 22402, May 29, 1985).

CHANGES:

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete "(Recruiting Service)" from end of entry, and add "and Executive Order 9397."

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with "Records are cut off at the end of each calendar year in which case files are closed, held for one additional year, then destroyed. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning."

* * * * *

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager."

* * * * *

F035 ATC D

SYSTEM NAME:

Basic Trainee Interview Record.

SYSTEM LOCATION:

United States Air Force Recruiting Service Liaison Office (USAFRS/RSL), Lackland Air Force Base, TX 78236–5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

United States Air Force Basic Trainees who register complaints concerning their enlistment in the United States Air Force.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records resulting from personal interviews with basic trainees who file complaints about their enlistment, including, but not limited to, investigations on each complaint, conclusions and recommendations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 503, Enlistments: Recruiting campaigns; Air Training Command Regulation 33–2, Recruiting Procedures for the United States Air Force, and Executive Order 9397."

PURPOSE(S):

Provides a record of interviews with basic trainees who register complaints about the enlistment procedure. The data is used by the Recruiting Service Liaison Office to investigate the complaints and keep the Commander, United States Air Force Recruiting Service advised of the nature of complaints being received. It is also used as the basis for making procedural changes in the United States Air Force Recruiting Service when a trend develops in a specific area.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Retrieved by name or Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets.

RETENTION AND DISPOSAL:

Records are cut off at the end of each calendar year in which case files are closed, held for one additional year, then destroyed. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Superintendent, United States Air Force Recruiting Service Liaison Office (USAFRS/RSL), Lackland Air Force Base, TX 78236–5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address written inquiries to the Superintendent, United States Air Force Recruiting Service Liaison Office (USAFRS/RSL), Lackland Air Force Base, TX 78236–5000.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Superintendent, United States Air Force Recruiting Service Liaison Office (USAFRS/RSL), Lackland Air Force Base, TX 78236–5000.

CONTESTING RECORD PROCEDURES:

The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Records contain specific complaints/allegations made by the individual and responses to the complaints/allegations by appropriate Air Force Recruiting Service personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F035 ATC F

SYSTEM NAME:

Lead Management System (LMS) (50 FR 22403, May 29, 1985).

CHANGES:

SYSTEM IDENTIFICATION NUMBER:

Change system identification number to "F033 ATC A"

SYSTEM LOCATION:

Delete entry and replace with "Air Force Opportunity Center (AFOC) (Duties of this Center are performed by a civilian contractor who is engaged by the Air Force to provide lead fulfillment services. Location depends on the contractor. Contact the system manager for specific locations). Headquarters, United States Air Force Recruiting Service, Randolph Air Force Base, TX 78150–5421, and recruiting activities."

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete "SSN."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete "(Recruiting Service)" from end of entry.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Delete the word "None" and replace with "The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system."

* * * * *

SAFEGUARDS:

Delete entry and replace with "Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for

need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software."

RETENTION AND DISPOSAL:

Delete entry and replace with "Retained by contractor at the AFOC for two years after end of FY in which all actions are completed. Records are then destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Director of Advertising and Promotion, HQ USAF Recruiting Service (HQ USAFRS/RSA), Randolph Air Force Base, TX 78150–5421."

* * * * *

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager."

* * * * *

F033 ATC A

SYSTEM NAME:

Lead Management System (LMS).

SYSTEM LOCATION:

Air Force Opportunity Center (AFOC) (Duties of this Center are performed by a civilian contractor who is engaged by the Air Force to provide lead fulfillment services. Location depends on the contractor. Contact system manager for specific locations). Headquarters, United States Air Force Recruiting Service, Randolph Air Force Base, TX 78150–5421, and recruiting activities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Respondents to United States Air Force Recruiting Service advertisements and referrals made by active duty military personnel, retired military personnel and Air Force civilian employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Respondent's inquiry record containing name, address, date of birth, sex, telephone number, advertising medium, recruiting program in which interested, and source of referral, including name and Air Force base assigned. Recruiter contact records containing success of contact efforts, reason for not contacting, how contact was made, confirmation of educational level, qualification and status of individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 503, Enlistments: Recruiting campaigns, and Air Training Command Regulation 33–2, Recruiting Procedures for the United States Air Force.

PURPOSE(S):

The contractor fulfills requests from respondents for information about the Air Force and notifies appropriate recruiting activities of respondent's interest. Contractor develops statistical summaries which are used by USAF Recruiting Service to evaluate the effectiveness of the advertising and referral programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in computers and on computer products.

RETRIEVABILITY:

Retrieved by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

Retained by contractor at the AFOC for two years after end of FY in which all actions are completed, then records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Advertising and Promotion, HQ USAF Recruiting Service (HQ USAFRS/RSA), Randolph Air Force Base, TX 78150–5421.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address written inquiries to the Director of Advertising and Promotion, HQ USAF Recruiting Service (HQ USAFRS/RSA), Randolph Air Force Base, TX 78150–5421.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Director of Advertising and Promotion, HQ USAF Recruiting Service (HQ USAFRS/RSA), Randolph Air Force Base, TX 78150–5421.

CONTESTING RECORD PROCEDURES:

The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual respondent and automated system interfaces.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F035 ATC G

SYSTEM NAME:

Recruiting Activities Management Support System (RAMSS) (50 FR 46477, November 8, 1985).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with "HQ United States Air Force Recruiting Service, Directorate of Recruiting, Randolph Air Force Base, TX 78150–5421, and recruiting activities. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices."

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete "(Recruiting Service)" from end of entry, and add "and Executive Order 9397."

* * * * *

SAFEGUARDS:

Delete entry and replace with "Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who

are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software."

RETENTION AND DISPOSAL:

Delete entry and replace with "Enlistment processing records and recruiter records are retained until no longer needed; recruiter personnel records are retained for one year after individual is removed from recruiter production status; potential enlistee records and high school test records are retained for two years or when no longer needed, whichever is sooner; advertising lead records are retained for two years after end of FY and interservice recruiting records are retained for three months after the end of the month case file was received by the recruiter. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting. These retentions are built into the computer system program with automatic software controlled deletions from the machine-readable record."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Directorate of Recruiting Operations, HQ United States Air Force Recruiting Service (HQ USAFRS/RSO), Randolph Air Force Base, TX 78150–5421."

* * * * *

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager."

* * * * *

F035 ATC G

SYSTEM NAME:

Recruiting Activities Management Support System (RAMSS).

SYSTEM LOCATION:

HQ United States Air Force Recruiting Service, Directorate of Recruiting, Randolph Air Force Base, TX 78150–5421, and recruiting activities. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force enlisted personnel entering active duty. Individuals tested and processed for Air Force enlistment. Potential Air Force enlistees qualified through the Armed Services Vocational Aptitude Battery (ASVAB) high school testing program. Other military services Delayed Enlistment Program (DEP) and active duty enlistees. Applicants for Air Force officer commissioning programs. Air Force enlisted personnel on recruiting duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

Air Force enlistment processing records showing name, SSN, scores on all qualification tests, physical job qualifications, job preferences, jobs offered, jobs accepted, other personal data relevant to jobs offered, recruiting and processing locations, education data, and dates of processing.

Airman trainee history records containing name, SSN, and other personnel data for assignment from basic military training, revised job preferences, security clearance investigations, dependent data, education, test scores, grade and promotions, biographical history, physical information, drug abuse history, enlistment personal and guaranteed training enlistee program data, separation data, classification data, service dates, technical school eliminations, separations, honor graduates, and Article 15/courts-martial actions.

Records for high school seniors who are ASVAB tested and meet the basic Air Force enlistment criteria showing name, mailing address, test scores, and high school where tested.

Enlistment processing records for other military services showing SSN, name, state and county of residence, test scores, educational level, physical profile, processing date and location, prior service, and other personal data such as age, sex, race, marital status, and number of dependents.

Officer applicant records showing SSN, name, and other educational and personal data necessary for the processing of candidates for commissioning as Air Force Officer.

Air Force enlisted recruiter individual records showing such items as SSN, name, recruiting office assigned, and date assigned to Recruiting Service.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 503, Enlistments: Recruiting campaigns, and Air Training Command Regulation 33–2, Recruiting Procedures for the United States Air Force, and Executive Order 9397.

PURPOSE(S):

To furnish leads to the field recruiters derived from the high school ASVAB testing program, evaluate Air Force recruiters on effectiveness of screening out potential under/overweight applicants, evaluate recruiter's and job counselor's activity and efficiency levels, analyze pre-enlistment job cancellations for common reasons, analyze post-enlistment training pipeline attritions for common reasons, evaluate Air Force job reservation pool and past enlistments for effect of potential changes in enlistment policies in areas such as mental qualifications and physical qualifications, evaluate interservice recruiting performance, screen other service enlistees from Air Force advertising lead files, determine pass/fail rates for mental and physical testing, track training performance of Air Force enlistees, study the correlation of job held with performance on the job, study correlation of quality indicators with post-enlistment performance, feedback to field recruiters of individual records on all training attritions, and analyze advertising responses.

Used by the personnel record maintenance activity to cross-check file completeness and accuracy. Individual records are aggregated into various statistical analyses for all levels to ascertain recruiting and seasonal procurement trends, to predict future potential developments, and to assist in the development of procurement, classification, and assignment policies for Air Force military personnel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in computers and on computer output products.

RETRIEVABILITY:

Retrieved by name or Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in

locked rooms and cabinets. Those in computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

Enlistment processing records and recruiter records are retained until no longer needed; recruiter personnel records are retained for one year after individual is removed from recruiter production status; potential enlistee records and high school test records are retained for two years or when no longer needed, whichever is sooner; advertising lead records are retained for two years after end of FY and interservice recruiting records are retained for three months after the end of the month case file was received by the recruiter. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting. These retentions are built into the computer system program with automatic software controlled deletions from the machine-readable record.

SYSTEM MANAGER(S) AND ADDRESS:

Directorate of Recruiting Operations, HQ United States Air Force Recruiting Service (HQ USAFRS/RSO), Randolph Air Force Base, TX 78150–5421.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether this system of records contains information on themselves should address written inquiries to the Directorate of Recruiting Operations, HQ United States Air Force Recruiting Service (HQ USAFRS/RSO), Randolph Air Force Base, TX 78150–5421.

Request must contain full name and current mailing address.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Directorate of Recruiting Operations, HQ United States Air Force Recruiting Service (HQ USAFRS/RSO), Randolph Air Force Base, TX 78150–5421.

CONTESTING RECORD PROCEDURES:

The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The source of all records in the system are from automated system interfaces.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F035 ATC H

SYSTEM NAME:

Recruiting Research and Analysis System (50 FR 22404, May 29, 1985).

CHANGES:

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete last sentence.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete "(Recruiting Service)" from end of entry, and add "and Executive Order 9397."

* * * * *

SAFEGUARDS:

Delete entry and replace with "Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software."

RETENTION AND DISPOSAL:

Delete entry and replace with "Records are retained until no longer needed. ASVAB records are destroyed after two months. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Director of Recruiting Operations, HQ United States Air Force Recruiting Service (HQ USAFRS/RSO), Randolph Air Force Base, TX 78150–5421."

* * * * *

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager."

* * * * *

F035 ATC H

SYSTEM NAME:

Recruiting Research and Analysis System.

SYSTEM LOCATION:

HQ United States Air Force Recruiting Service, Randolph Air Force Base, TX 78150–5421.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force enlisted personnel entering active duty. Individuals tested and processed for Air Force enlistment. Potential Air Force enlistees qualified through the Armed Services Vocational Aptitude Battery (ASVAB) high school testing program. Applicants for the Officer Training School. Air Force active duty officer and enlisted personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Survey analysis records containing such items as Social Security Number, biographical and opinion survey data, supervisor's ratings, achievement, aptitude, reading, vocational interest and adjustment and temperament inventory scores, Air Force tech training class score, statistics and trend analysis.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 503, Enlistments: Recruiting campaigns, and Air Training Command Regulation 33–2, Recruiting Procedures for the United States Air Force, and Executive Order 9397.

PURPOSE(S):

Research statistical reference file used by HQ United States Air Force Recruiting Service. Specific uses are to: (1) Evaluate the quality of Air Force military personnel procured by Air Force Recruiting Service; (2) develop a more objective screening process for entry into recruiting duty; and (3) develop opinion-based recommendations for recruiting effort improvements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders, in computers and on computer output products.

RETRIEVABILITY:

Retrieved by Social Security Number, study control number or name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

Records are retained until no longer needed. ASVAB records are destroyed after two months. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Recruiting Operations, HQ United States Air Force Recruiting Service (HQ USAFRS/RSO), Randolph Air Force Base, TX 78150–5421.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address written inquiries to the Director of Recruiting Operations, HQ United States Air Force Recruiting Service (HQ USAFRS/RSO), Randolph Air Force Base, TX 78150–5421.

Social Security Number and full name are required to determine if the system contains a record relative to any specific individual. Valid proof of identity is required.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Director of Recruiting Operations, HQ United States Air Force Recruiting Service (HQ USAFRS/RSO), Randolph Air Force Base, TX 78150–5421.

CONTESTING RECORD PROCEDURES:

The Department of the Air Force rules for access to records and individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from individuals, supervisors, from Air Force Technical Training Centers and from the Recruiting Activities Management Support System (RAMSS).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F045 ATC C

SYSTEM NAME:

Cadet Records (50 FR 22436, May 29, 1985).

CHANGES:

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete the word "servicemen" and insert the words "service members." Delete the word "documents" and insert the word "records" throughout the paragraph.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Add to end of entry "Air Force Regulation 45–3, Air Force Reserve Officer Training Corps Field Training Program, and Executive Order 9397."

* * * * *

STORAGE:

Delete entry and replace with "Maintained in file folders, notebooks/binders, in computers and on computer output products."

RETRIEVABILITY:

Delete entry and replace with "Retrieved by name, Social Security Number and detachment number."

SAFEGUARDS:

Delete entry and replace with "Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software."

RETENTION AND DISPOSAL:

Delete entry and replace with "Records at unit of assignment are destroyed one year after acceptance of commission or one year after disenrollment. Records at HQ AFROTC for disenrolled cadets are destroyed after three years. Computer records are destroyed when no longer needed. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Director of Senior Program, HQ AFROTC/RRU, Maxwell Air Force Base, AL 36112–6663, and Commander of the appropriate AFROTC detachment. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices."

* * * * *

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager."

* * * * *

F045 ATC C

SYSTEM NAME:

Cadet Records.

SYSTEM LOCATION:

HQ Air Force Reserve Officer Training Corp (HQ AFROTC/RRF), Maxwell Air Force Base, AL 36112–6663, and AFROTC detachments. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

AFROTC cadets applying for, or enrolled or previously enrolled within the past three years in the professional officers course or the general military course, if the latter participation was in a scholarship status.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications for enrollment in the Air Force Reserve Officers' Training Corps (AFROTC) courses, applications for the AFROTC scholarship program, substantiation records of qualification for the courses or programs, acceptances of applications, awards of scholarships, records attesting to medical, academic, moral and civic qualifications, records recording progress in flying instruction, Euro-NATO Joint Jet Pilot Training (ENJJPT) application data, academic curriculum and leadership training, counseling summaries, records of disenrollment from other officer candidate training; records of separation or discharge from officer candidate training; records of separation or discharge of prior service members; financial record data, certification of degree requirements; Regular appointment nomination data, records tendering and accepting commissions, records verifying national agency checks or background investigation, records required or proffered during investigations for disenrollment, legal opinions, letters of recommendations, corroboration by civil authorities, awards, citations; and allied papers.

Field training administration records consist of student assignment/orders, in-processing checklist, counseling records, drill evaluation, weekly quarters inspection, discrepancy reports, student performance reports. Flight instruction program records consist of student eligibility, grade sheets and performance records, training certificates, waiver and elimination actions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 10 U.S.C. Chapter 33, Appointment in Regular Component, and Chapter 103, Senior Reserve Officers' Training Corps; Air Force Regulation 45–48, Air Force Reserve Officers' Training Corps (AFROTC), Air Force Regulation 45–3, Air Force Reserve Officer Training Corps Field Training Program and Executive Order 9397.

PURPOSE(S):

Used for recruiting and qualifying a candidate for acceptance as an AFROTC cadet, continuing the cadet in the program and awarding an Air Force commission.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, note books/binders, in computers and on computer output products.

RETRIEVABILITY:

Retrieved by name, Social Security Number and detachment number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

Records at unit of assignment are destroyed one year after acceptance of commission or one year after disenrollment. Records at HQ AFROTC for disenrolled cadets are destroyed after three years. Computer records are destroyed when no longer needed. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Senior Program, HQ AFROTC/RRU, Maxwell Air Force Base, AL 36112–6663, and Commander of the appropriate AFROTC detachment. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address written inquiries to the AFROTC Detachment Commander at location of assignment. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

Request for information involving an investigation for disenrollment should be addressed to HQ AFROTC/RRF, Maxwell Air Force Base, AL 36112. Requests should include full name and SSN.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Director of Senior Program, HQ AFROTC/RRU, Maxwell Air Force Base, AL 36112–6663 or the AFROTC Detachment Commander at location of assignment. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices. Both addresses may be visited by the requester.

CONTESTING RECORD PROCEDURES:

The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Sources of records in the system are educational institutions, secondary and higher learning; government agencies; civilian authorities; financial institutions; previous employers; individual recommendations, interviewing officers; and civilian medical authorities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Portions of this system which fall within 5 U.S.C. 552a(k)(5) are exempt from the following provisions of Title 5 U.S.C. 552a, sections (c)(3); (d); (e)(4), (G), (H), and (f) of the Act, but only to the extent that disclosure would reveal the identity of a confidential source.

An exemption rule for this record system has been promulgated in accordance with the requirements of 5 U.S.C. 553(b) (1), (2), and (3), (c) and (e) and published in 32 CFR part 806b. For additional information contact the system manager.

F050 ATC A

SYSTEM NAME:

Officer Training School Resource Management System - Officer Trainees (50 FR 22447, May 29, 1985).

CHANGES:

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "demographic data such as college degree, major institution, and year awarded; OTS selection data such as Air Force Officer Qualifying Test scores; performance data such as test scores, measurement evaluation, merits and demerits earned, involvement in remedial programs; health data to include height, weight aerobic program requirements and performance; injuries that require waivers to training or delay of commissioning; student disposition indicators showing in-training, eliminated, recycled, held over or graduated."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "10 U.S.C. Chapter 907-Schools and Camps as implemented by Air Force Regulation 53–27, Officer Training School (OTS) Precommissioning Program, USAF, Air Training Command Regulation 53–3, Administration of the Officer Training School (OTS) Program, and Executive Order 9397."

* * * * *

RETRIEVABILITY:

Delete entry and replace with "Retrieved by Social Security Number."

SAFEGUARDS:

Delete entry and replace with "Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software."

RETENTION AND DISPOSAL:

Delete entry and replace with "Records are retained for two years after class graduation then destroyed. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting."

* * * * *

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager."

* * * * *

F050 ATC A

SYSTEM NAME:

Officer Training School Resource Management System - Officer Trainees.

SYSTEM LOCATION:

Officer Training School (OTS), Lackland AFB, TX 78236–5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Officer trainees while attending OTS.

CATEGORIES OF RECORDS IN THE SYSTEM:

Officer trainee record showing name, Social Security Number; demographic data such as college degree, major institution, and year awarded; OTS selection data such as Air Force Officer Qualifying Test scores; performance data such as test scores, measurement evaluation, merits and demerits earned, involvement in remedial programs; health data to include height, weight aerobic program requirements and performance; injuries that require waivers to training or delay of commissioning; student disposition indicators showing in-training, eliminated, recycled, held over or graduated.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. Chapter 907-Schools and camps as implemented by Air Force Regulation 53–27, Officer Training School (OTS) Precommissioning Program, USAF, Air Training Command Regulation 53–3, Administration of the Officer Training School (OTS) Program, and Executive Order 9397.

PURPOSE(S):

To track attrition to the OTS program by cause and type comparing that against demographic and performance data of the individual, and to monitor the progress of an individual toward completion of the program. Records may be grouped by class, squadron, flight, a demographic or performance factor in the accomplishment of evaluations of the program or the individual in relation to cohorts. Studies, analyses, and evaluations that use these records are intended to improve the quality of the training program, and develop a more accurate profile of those individuals who can be expected to accomplish the OTS program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on magnetic tape, disk units, in computers and on computer output products.

RETRIEVABILITY:

Retrieved by Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

Records are retained for two years after class graduation then destroyed. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

Registrar, Officer Training School (OTS/MTS), Lackland AFB, TX 78236–5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address written inquiries to the Registrar, Officer Training School (OTS/MTS), Lackland AFB, TX 78236–5000.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Registrar, Officer Training School (OTS/MTS), Lackland AFB, TX 78236–5000.

CONTESTING RECORD PROCEDURES:

The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from the individual, flight commanders, OTS instructors, personnel specialists and members of the registrar's office.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F050 ATC I

SYSTEM NAME:

Defense English Language Management Information System (DELMIS) (50 FR 22451, May 29, 1985).

CHANGES:

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with "International Military Students (IMS) and active duty military personnel assigned to the program."

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "10 U.S.C. 8013, Secretary of the Air Force: Powers and duties; delegation by; as implemented by AFR 50–24/ OPNAVINST 1550.11/MCO 1550.24, Management of the Defense English Language Program, and Executive Order 9397."

* * * * *

RETRIEVABILITY:

Delete entry and replace with "Retrieved by name or student control number."

SAFEGUARDS:

Delete entry and replace with "Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in

computer storage devices are protected by computer system software. Access to the computer system requires user code and password."

RETENTION AND DISPOSAL:

Add to end of entry "Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting."

* * * * *

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager."

* * * * *

F050 ATC I

SYSTEM NAME:

Defense English Language Management Information System (DELMIS).

SYSTEM LOCATION:

Defense Language Institute English Language Center, Lackland AFB TX 78236–5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

International Military Students (IMS) and active duty military personnel assigned to the program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and Social Security Number; demographic data such as date of birth, sex, marital status, ethnic group; educational data; performance data such as test scores; measurement data; individual training progress and proficiency; class schedule; locator, and academic status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force: Powers and duties; delegation by; as implemented by AFR 50–24/OPNAVINST 1550.11/MCO 1550.24, Management of the Defense English Language Program, and Executive Order 9397.

PURPOSE(S):

To track attrition of the program by cause and type, and to compare that against demographic and performance data of the individual, and to monitor the progress of each individual toward completion of the program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in computer and computer output products.

RETRIEVABILITY:

Retrieved by name or student control number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software. Access to the computer system requires user code and password.

RETENTION AND DISPOSAL:

Output products are retained until no longer needed; computerized records will be retained for ten years after individual completes or discontinues training. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

Training Operations Branch, Defense Language Institute English Language Center (DLIELC/LEAX), Lackland AFB TX 79236–5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address written inquiries to the Training Operations Branch, Defense Language Institute English Language Center (DLIELC/LEAX), Lackland AFB TX 79236–5000.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Training Operations Branch, Defense Language Institute English Language Center (DLIELC/LEAX), Lackland AFB TX 79236–5000.

CONTESTING RECORD PROCEDURES:

The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from the individual, source documents, commanders.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F051 AF A

SYSTEM NAME:

Flying Training Records (50 FR 25738, June 21, 1985).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with "12th Flying Training Wing, 1st Flight Screening Squadron, Lackland Air Force Base, TX 78236–5000, and 557th Flying Training Squadron, United States Air Force Academy (USAF Academy), CO 80840–5001."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with "All students entered in T41 training at Hondo Municipal Airport, Hondo, TX, and the USAF Academy, CO."

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "Flying training grades and records. Complete record of training including class number, flying and academic course completed, flying hours, whether graduated or eliminated and date, reason for elimination. Training Review Board proceedings, student performance in each category of training, including grades, evaluations and performance documentation, background information including name, grade and Social Security Number."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "10 U.S.C. 8013, Secretary of the Air Force: Powers and duties; delegation by; Air Training Command Regulation 51–10, Student Administration; 10 U.S.C. 903, United States Air Force Academy, and Executive Order 9397."

PURPOSE(S):

Delete entry and replace with "To determine flying training potential and to document and record performance, and manage training."

* * * * *

STORAGE:

Delete entry and replace with "Maintained in file folders, in computers and on computer output products."

RETRIEVABILITY:

Delete entry and replace with "Retrieved by name or Social Security Number."

SAFEGUARDS:

Delete entry and replace with "Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software."

RETENTION AND DISPOSAL:

Delete entry and replace with "Student training records are destroyed 1 year after completion of the Flight Screening Program. Student training records for Air Force Reserve Officer Training Corp cadets are destroyed 2 years after completion of training. Student grade books are destroyed 18 months after class graduates (June). Training Review Board records are destroyed one year after closeout. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Commander, 1st Flight Screening Squadron, Lackland AFB, TX 78236–5000 and Commander, 557th Flying Training Squadron, USAF Academy, CO 80840–5001."

* * * * *

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager."

* * * * *

F051 AF A

SYSTEM NAME:

Flying Training Records.

SYSTEM LOCATION:

12th Flying Training Wing, 1st Flight Screening Squadron, Lackland Air Force Base, TX 78236–5000, and 557th Flying Training Squadron, United States Air Force Academy (USAF Academy), CO 80840–5001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All students entered in T41 training at Hondo Municipal Airport, Hondo, TX, and the USAF Academy, CO.

CATEGORIES OF RECORDS IN THE SYSTEM:

Flying training grades and records. Complete record of training including class number, flying and academic course completed, flying hours, whether graduated or eliminated and date, reason for elimination. Training Review Board proceedings, student performance in each category of training, including grades, evaluations and performance documentation, background information including name, grade and Social Security Number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force: Powers and duties; delegation by; Air Training Command Regulation 51–10, Student Administration; 10 U.S.C. 903, United States Air Force Academy, and Executive Order 9397.

PURPOSE(S):

To Determine flying training potential and to Document and record performance, and manage training.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published the beginning of the agency's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, in computers and on computer output products.

RETRIEVABILITY:

Retrieved by name or Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

Student training records are destroyed 1 year after completion of the Flight Screening Program. Student training records for Air Force Reserve Officer Training Corp cadets are destroyed 2 years after completion of training. Student grade books are destroyed 18 months after class graduates (June). Training Review Board records are destroyed one year after closeout. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, 1st Flight Screening Squadron, Lackland AFB, TX 78236–5000 and Commander, 557th Flying Training Squadron, USAF Academy, CO 80840–5001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address written inquiries to the Commander, 1st Flight Screening Squadron, Lackland AFB, TX 78236–5000 or to the Commander, 557th Flying Training Squadron, USAF Academy, CO 80840–5001.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Commander, 1st Flight Screening Squadron, Lackland AFB, TX 78236–5000 or to the Commander, 557th Flying Training Squadron, USAF Academy, CO 80840–5001.

CONTESTING RECORD PROCEDURES:

The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Internally generated. Information from source documents such as grade sheets, written examinations, and flight examinations; from reports by instructors and from the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F051 AF B

SYSTEM NAME:

Flying Training Records - Nonstudent (50 FR 22460, May 29, 1985).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with "Columbus Air Force Base, MS 39701–5000; Lackland Air Force Base, TX 78236–5001; Laughlin Air Force Base, TX 78843–5000; Mather Air Force Base, CA 95655–5000; Randolph Air Force Base, TX 78150–5000; Reese Air Force Base, TX 79489–5000; Sheppard Air Force Base, TX 76311–5000; Williams Air Force Base, AZ 85240–5000; 50th Airmanship Training Squadron (50ATS), United States Air Force Academy (USAF Academy), CO 80840– 5001, and Peterson AFB, CO 80914–5000. Headquarters Air Force Systems Command (AFSC), and AFSC divisions, centers, laboratories and bases. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices."

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "10 U.S.C. 8013, Secretary of the Air Force: Powers and duties; delegation by; Air Training Command Regulation 51–27, Academic Training; 10 U.S.C. 903, United States Air Force Academy; Air Force Systems Command Manual 51–1, Aircrew Flying Training, and Executive Order 9397."

* * * * *

STORAGE:

Delete entry and replace with "Maintained in file folders, microform, magnetic tape, in computers and on computer output products."

* * * * *

SAFEGUARDS:

Delete entry and replace with "Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software."

RETENTION AND DISPOSAL:

Delete entry and replace with "Flight Evaluation Folders are maintained for the duration of the individual's assignment in Air Training Command or at the USAF Academy. Outdated material is returned to the individual. Aircrew instruction records and students flight training records are destroyed after 1 year, or on discontinuance of activity, whichever is sooner. Radio tapes are destroyed after 15 days unless circumstances dictate otherwise. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Deputy Chief of Staff Operations, Headquarters, Air Training Command (HQ ATC/DOV), Randolph Air Force Base, TX 78150–5001. Deputy Commandant for Operations, USAF Academy, CO 80840–5001; Commander, 50ATS, USAF Academy, CO 80840–5566; and Noncommissioned Officer in Charge, Operations System Management, Peterson AFB, CO 80914–5000. Detachment 24, HQ AFSC/OSE, Eglin AFB FL 32542–5000."

* * * * *

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager."

* * * * *

F051 AF B

SYSTEM NAME:

Flying Training Records - Nonstudent.

SYSTEM LOCATION:

Columbus Air Force Base, MS 39701–5000; Lackland Air Force Base, TX 78236–5001; Laughlin Air Force Base, TX 78843–5000; Mather Air Force Base, CA 95655–5000; Randolph Air Force Base, TX 78150–5000; Reese Air Force Base, TX 79489–5000; Sheppard Air Force Base, TX 76311–5000; Williams Air Force Base, AZ 85240–5000; United States Air Force Academy (USAF Academy), CO 80840–5001, 50th Airmanship Training Squadron (50ATS), USAF Academy, CO 80840–5566, and Peterson AFB, CO 80914–5000. Headquarters Air Force Systems Command (AFSC), and AFSC Divisions, Centers, Laboratories and Bases. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Aircrew personnel of Air Training Command (ATC), academic instructors in flying training courses; trainer instructors; aircrew personnel; academic and staff instructors attached to the Deputy Commandant for Operations in support of Airmanship and 50ATS flying programs; and students entered into AFSC flight training program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records which document aircrew training, evaluations, performance, and accomplishments. Taped radio transmissions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force: Powers and duties; delegation by; Air Training Command Regulation 51–27, Academic Training; 10 U.S.C. 903, United States Air Force Academy; and Air Force Systems Command Manual 51–1, Aircrew Flying Training, and Executive Order 9397.

PURPOSE(S):

To document the training, performance, and qualifications of aircrew and synthetic trainer personnel. Taped radio communications are used to investigate aircraft accidents, and to document aircrew training, evaluations, and performance.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, microform, magnetic tape, in computers and on computer output products.

RETRIEVABILITY:

Retrieved by name or Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

Flight Evaluation Folders are maintained for the duration of the individual's assignment in Air Training Command or at the USAF Academy. Outdated material is returned to the individual. Aircrew instruction records and students flight training records are destroyed after 1 year, or on discontinuance of activity, whichever is sooner. Radio tapes are destroyed after 15 days unless circumstances dictate otherwise. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff Operations, Headquarters, Air Training Command (HQ ATC/DOV), Randolph Air Force Base, TX 78150–5001. Deputy Commandant for Operations, USAF Academy, CO 80840–5001; Commander, 50ATS, USAF Academy, CO 80840–5566; and Noncommissioned Officer in Charge, Operations System Management, Peterson AFB, CO 80914–5000. Detachment 24, HQ AFSC/OSE, Eglin AFB FL 32542–5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address written inquiries to the Deputy Chief of Staff Operations, Headquarters, Air Training Command (HQ ATC/DOV), Randolph Air Force Base, TX 78150–5001; Deputy Commandant for Operations, USAF Academy, CO 80840–5001; Commander, 50ATS, USAF Academy, CO 80840–5566; and Noncommissioned Officer in Charge, Operations System Management, Peterson AFB, CO 80914–5000; Detachment 24, HQ AFSC/OSE, Eglin AFB FL 32542–5000.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Deputy Chief of Staff Operations, Headquarters, Air Training Command (HQ ATC/DOV), Randolph Air Force Base, TX 78150–5001; Deputy Commandant for Operations, USAF Academy, CO 80840–5001; Commander, 50ATS, USAF Academy, CO 80840–5566; and Noncommissioned Officer in Charge, Operations System Management, Peterson AFB, CO 80914–5000; Detachment 24, HQ AFSC/OSE, Eglin AFB FL 32542–5000.

CONTESTING RECORD PROCEDURES:

The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information from source documents prepared by personnel administering training or evaluating performance; voice radio communications. Information is obtained from the individual, from instructor supervisors, and personnel involved in the evaluation and analysis of training effectiveness.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F051 AF C

SYSTEM NAME:

Flying Training Records - Student (50 FR 22461, May 29, 1985).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with "Headquarters, Air Training Command (HQ ATC), Randolph AFB TX, 78150–5001; Washington National Records Center, Washington, DC 20409; 94th Airmanship Training Squadron (94 ATS), United States Air Force Academy (USAF Academy), CO 80840–5001, and 50th Airmanship Training Squadron (50 ATS), USAF Academy, CO 80840–5566. All ATC pilot and navigator training wings. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices."

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete paragraph numbers and change "Faculty Board" to "Training Review Board."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "10 U.S.C. 8013, Secretary of the Air Force: Powers and duties; delegation by; Air Training Command Regulation 51–9, Training Review Process; Air Training Command Regulation 51–10, Student Administration, and 10 U.S.C. 903, United States Air Force Academy, and Executive Order 9397."

PURPOSE(S):

Delete paragraph numbers and change "Faculty Board" to "Training Review Board."

* * * * *

RETRIEVABILITY:

Delete entry and replace with "Retrieved by name or Social Security Number."

SAFEGUARDS:

Delete entry and replace with "Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software."

RETENTION AND DISPOSAL:

Delete entry and replace with "Student grade books are destroyed one year after completion of training; Summary Training Records are retained in office files for two years after completion or discontinuance of course, then retired to Washington National Records Center, Washington, DC, for eight years; other records are retained in office files until superseded, obsolete, no longer needed for reference or on inactivation. Training Review Board records are retained for one year. Student cadet records are destroyed after graduation. Student grade books are retained for 1 year after course completion. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting."

* * * * *

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager."

* * * * *

F051 AF C

SYSTEM NAME:

Flying Training Records - Student.

SYSTEM LOCATION:

Headquarters, Air Training Command (HQ ATC), Randolph AFB TX, 78150–5001; Washington National Records Center, Washington, DC 20409; 94th Airmanship Training Squadron (94

ATS), United States Air Force Academy (USAF Academy), CO 80840–5001, and 50th Airmanship Training Squadron (50 ATS), USAF Academy, CO 80840– 5566. All ATC pilot and navigator training Wings. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Students entered into undergraduate pilot and navigator training; students entered into airmanship flying training courses at USAF Academy, and students entered in Aviation Science courses at USAF Academy who fly the T–43A as part of these courses.

CATEGORIES OF RECORDS IN THE SYSTEM:

Complete record of training including class number, flying and completed, flying hours, whether graduated or eliminated and date, reasons for elimination, Training Review Board proceedings, student's performance in each category of training, including grades, evaluations and performance documentation; background information including name, grade, Social Security Number; source of commission, college, subject matter, etc; past training unit of assignment; class standing prior to Dec. 31, 1974; progress records on minority students academic course completed; complete record of evaluations including section number, student name, grades on each phase of flight evaluations and overall flight evaluation grades.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force: Powers and duties; delegation by; Air Training Command Regulation 51–9, Training Review Process; Air Training Command Regulation 51–10, Student Administration, and 10 U.S.C. 903, United States Air Force Academy, and Executive Order 9397.

PURPOSE(S):

Document and record student performance, analyze student performance in follow-on training in order to evaluate training and revise course content; provide background information; report to Air National Guard/Air Force Reserve and other Air Force training units on qualifications of graduates; used to monitor student performance by source of entry, education level, and minority status; record and document Training Review Board proceedings; used to monitor student performance and as a record in the event of Training Review Board proceedings.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, note books/binders, card files in computers and on computer products.

RETRIEVABILITY:

Retrieved by name or Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

Student grade books are destroyed one year after completion of training; summary training Records are retained in office files for two years after completion or discontinuance of course, then retired to Washington National Records Center, Washington, DC, for eight years; other records are retained in office files until superseded, obsolete, no longer needed for reference or on inactivation. Training Review Board records are retained for one year. Student cadet records are destroyed after graduation. Student grade books are retained for 1 year after course completion. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff Operations, Headquarters, Air Training Command (HQ ATC/DOTF), Randolph Air Force Base, TX 78150–5000. Commander, 94 ATS (94 ATS/CC), USAF Academy, CO 80840–8876. Commander, 50 ATS (50 ATS/CC), USAF Academy, CO 80840–5566.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address written inquiries to the Deputy Chief of Staff Operations, Headquarters, Air Training Command (HQ ATC/DOTF), Randolph Air Force Base, TX 78150–5000; Commander, 94 ATS (94 ATS/CC), USAF Academy, CO 80840–8876; or the Commander, 50 ATS (50 ATS/CC), USAF Academy, CO 80840–5566.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Deputy Chief of Staff Operations, Headquarters, Air Training Command (HQ ATC/DOTF), Randolph Air Force Base, TX 78150–5000; Commander, 94 ATS (94 ATS/CC), USAF Academy, CO 80840–8876; or the Commander, 50 ATS (50 ATS/CC), USAF Academy, CO 80840–5566.

CONTESTING RECORD PROCEDURES:

The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information comes from source documents such as grade sheets, written examinations, and flight examinations, and flight grade sheets; from reports by instructors and students, automated system interfaces, and from the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F060 AF A

SYSTEM NAME:

Air Force Operations Resource Management Systems (AFORMS) (50 FR 22466, May 29, 1985).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with "Headquarters United States Air Force and major command headquarters. Air Force Inspection and Safety Center, Norton Air Force Base, CA 92409–7001. Host, tenant and squadron Operations System Management offices at Air Force installations, and McDonnell Douglas Training Systems, McDonnell Aircraft Company, 12301 Missouri Bottom Road, Hazelwood, MO 63042. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices."

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "37 U.S.C. 301a, Incentive pay: Public Law 92–204 (Appropriations Act for 1973), Section 715; Public Law 93–570 (Appropriations Act for 1974); Public Law 93–294 (Aviation Career Incentive Act of 1974; DOD Directive 7730.57 (Aviation Career Incentive Act and Required Annual Report); Air Force Regulation 60–1, Flight Management, and Executive Order 9397."

* * * * *

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager."

* * * * *

F060 AF A

SYSTEM NAME:

Air Force Operations Resource Management Systems (AFORMS).

SYSTEM LOCATION:

Headquarters United States Air Force and major command headquarters. Air Force Inspection and Safety Center, Norton Air Force Base, CA 92409. Host, tenant and squadron Operations System Management offices at Air Force installations, and McDonnell Douglas Training Systems, McDonnell Aircraft Company, 12301 Missouri Bottom Road, Hazelwood, MO 63042. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty military personnel, Air Force civilian employees, Air Force Reserve and Air National Guard personnel, Army, Navy and Marine Corps active duty military personnel and those foreign military personnel who are assigned to aviation duties by competent authority and attached to the USAF for flying support or who have been suspended from flying duties for a period of not more than 5 years.

CATEGORIES OF RECORDS IN THE SYSTEM:

The base-level AFORMS data base contains a master file of flying records for each individual in categories listed above, a month-to-date transaction file and a twelve month history file. A centralized file of selected information from each individual's master record is also maintained at HQ USAF, and flying history information is maintained at Norton Air Force Base, CA. In addition to automated data files, this system uses manual files for maintaining historical data and important source documents. An Individual Flight Record Folder (FRF) is established for each category of fliers listed above and is the prime repository for a computer listing which itemizes each individual's flight accomplishments as well as various source documents which serve to validate information entered into the computer data base for the system. Each Host Operations System Management office maintains a file of Aeronautical Orders and Military Pay Orders to provide source documentation of flying pay actions initiated by the flight manager. Information which is maintained in the automated files is derived directly from the AFORMS master file or from subsequent processing of information entered into the master file.

Categories of information maintained in the master file are: IDENTIFICATION DATA - provides individual identifiers and other information directly related to each individual in the file.

DUTY ASSIGNMENT DATA - Includes information such as the major command of assignment for the individual, the Air Force Specialty Code indicating professional duties, the unit, the responsible Operations system manager, base of assignment, etc.

AIRCREW TRAINING AND QUALIFICATION DATA - includes information such as flight and ground professional flying training accomplishments, aircrew qualification status, physical status for flight duties, types of aircraft assigned, etc.

UTILIZATION MANAGEMENT DATA - Includes flying experience information, professional qualifications, aviation duties assigned, etc.

FLYING PAY ENTITLEMENT DATA - Includes information needed to administer the payment of flying incentive pay for each individual.

LOCAL USE DATA - contains information used by major or local command to supplement general system information as needed to meet unique unit requirements within the categories of information listed herein.

SYSTEM CONTROL DATA - Contains computer data used to automatically control internal system functions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

37 U.S.C. 301a, Incentive pay: Public Law 92–204 (Appropriations Act for 1973), Section 715; Public Law 93–570 (Appropriations Act for 1974); Public Law 93–294 (Aviation Career Incentive Act of 1974; DOD Directive 7730.57 (Aviation Career Incentive Act and Required Annual Report); Air Force Regulation 60–1, Flight Management, and Executive Order 9397.

PURPOSE(S):

The AFORMS provides information and automated data processing capabilities used to manage and administer Air Force operations such as aircrew training and evaluation, flight scheduling functions, flying safety and related functions needed to attain and maintain combat or mission readiness. All information is entered into the system at the air base level. This information is then processed for use by flying resource managers at all levels through periodic computer product reports or automated systems interfaces.

The specific uses of information and user categories for this system are: BASE LEVEL ACTIVITIES - (1) to establish each member's flying pay entitlement status and to monitor continuing entitlement in accordance with existing directions; (2) to record each individual's flying activities, both hours and specific events, and provide indications of successful attainment of standards or deficiencies; (3) to establish each individual's Aviation Service code for use in indicating type of flying activity or reason for inactive status if applicable; (4) to determine each rated member's eligibility to perform operational flying in accordance with existing USAF directives; (5) to provide an indication of each rated member's total operational flying time in terms of total aviation career duties as required by the Aviation Career Incentive Act of 1974; (6) to establish "suspense lists" for use in scheduling flying personnel for flights, schools, tests and similar events directly related to their duties as professional airmen; (7) to provide each applicable individual and manager with all aviation career profile information needed to monitor flying career development, professional qualifications and training deficiencies; (8) to provide information requested by Operations, or other base functions, which relates to the flying duties and accomplishments of all personnel in the file; (9) to provide statistical data for management analysis and review of all aspects of each base's flying programs, including flying safety data involving AFORMS flying hour/individual information stored in the Norton Air Force Base, flying safety data bank maintained by the USAF Inspection and Safety Center.

OTHER BASE USERS: CONSOLIDATED BASE PERSONNEL OFFICE - uses information provided by this system, through an automated data interface, to report the flying status of all individuals in the files; provides flying career background information used for assignment actions.

ACCOUNTING AND FINANCE OFFICE - uses Military Pay Orders, prepared by flight management offices, to start and stop flying incentive pay in accordance with each individual's flying status and eligibility as reflected by the information in the system; uses the files to perform payment audits to identify individuals being paid improperly.

BASE SUPPLY - uses flying status information to determine which individuals are qualified to draw all authorized flying equipment.

BASE MEDICAL FACILITY - uses system data to determine projected workloads associated with scheduled flight physical examinations.

MAJOR COMMANDS - use all system data to measure the effectiveness of subordinate unit training programs and to check command-wide flying effectiveness.

AIR FORCE MANPOWER AND PERSONNEL CENTER - uses AFORMS information to establish assignment objectives and career development programs for USAF military personnel in the system.

USAF INSPECTION AND SAFETY CENTER - uses flying hour data for each individual to establish historical files for reconstruction of lost or damaged records and to augment the Flying Safety statistical data bank.

HQ USAF - uses various identification and flying data to establish statistical data needed to verify the effectiveness of standard procedures, determine the need for policy modification, provide a timely and accurate census of various types of flyers and provide a centralized point for collection and collation of data used by all levels of management. Air Force Accounting and Finance Center - uses AFORMS information to validate all flying payments in the JUMPS system.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, on computer magnetic tapes and on magnetic disks.

RETRIEVABILITY:

Retrieved by name and Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system, by person(s) responsible for servicing the record system in performance of their official duties and individuals in files. Access is specifically controlled by the Host Operations System Management office. Records are stored in locked cabinets or rooms. Computer terminals are locked when not in use or kept under surveillance.

RETENTION AND DISPOSAL:

Magnetic tape and hardcopy records are maintained in files for five years following removal of an individual from flying status. The magnetic tape records are then destroyed by degaussing or overwriting and the hardcopy files turned over to the individual. Personnel leaving military service are provided their hardcopy files and all disk and tape records are routinely erased except for historical records files maintained by AFISC. For deceased personnel, disk and tape records are routinely erased and hardcopy folders are provided to the survivors as part of the individual's personal effects.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Plans and Operations, Headquarters United States Air Force, Washington, DC 20330–5054.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether this system of records contains information on themselves should address written inquiries to the Deputy Chief of Staff/Plans and Operations, Headquarters United States Air Force, Washington, DC 20330–5054 or to the commander of the unit of assignment. Official mailing addresses are published as an appendix to the agency's compilation of systems of records notices.

Include name and SSN. Make base level inquiries to base flight manager.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Operations Deputy Chief of Staff/Plans and Operations, Headquarters United States Air Force, Washington, DC 20330–5054 or to the commander of the unit of assignment. Official mailing addresses are published as an appendix to the agency's compilation of systems of records notices.

CONTESTING RECORD PROCEDURES:

The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from individuals, aircrew managers, automated system interfaces and from source documents such as reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F168 AF SG A

SYSTEM NAME:

Automated Medical/Dental System (51 FR 44356, December 9, 1986).

CHANGES:

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Add to end of entry "and Executive Order 9397."

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM; INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Delete entry and replace with "The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system, except as stipulated in "Note" below. Information from the inpatient or outpatient medical records of retirees and dependents may be disclosed to third party payers in accordance with 10 U.S.C. 1095 as amended by Public Law 99–272, for the purpose of collecting reasonable inpatient/outpatient hospital care costs incurred on behalf of retirees or dependents.

In addition, records may be disclosed to: (1) Officials and employees of the Veterans Administration in the performance of their official duties relating to the adjudication of veterans claims and in providing medical care to members of the Air Force. (2) Officials and employees of other departments and agencies of the Executive Branch of government upon request in the performance of their official duties

relating to review of the official qualifications and medical history of applicants and employees who are covered by this record system and for the conduct of research studies. (3) Private organizations (including educational institutions) and individuals for authorized health research in the interest of the Federal government and the public. When not considered mandatory, patient identification data shall be eliminated from records used for research studies. (4) Officials and employees of the National Research Council in cooperative studies of the National History of Disease; of prognosis and of epidemiology. Each study in which the records of members and former members of the Air Force are used must be approved by the Surgeon General of the Air Force. (5) Officials and employees of local and state governments and agencies in the performance of their official duties pursuant to the laws and regulations governing local control of communicable diseases, preventive medicine and safety programs, child abuse and other public health and welfare programs. (6) Authorized surveying bodies for professional certification and accreditations. (7) The individual's organization or government agency as necessary when required by Federal statute, Executive Order, or by treaty.

Note: Records of identity, diagnosis, prognosis or treatment of any client/patient, irrespective of whether or when he/she ceases to be a client/patient, maintained in connection with the performance of any alcohol/drug abuse, family advocacy, AIDS, or sickle cell prevention and treatment function conducted, requested, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided herein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd–3, 290ee–3, and 21 U.S.C. 1175. These statutes take precedence over the Privacy Act of 1974 in regard to accessibility of such records except to the individual to whom the record pertains. The Department of the Air Force "Blanket Routine Uses" do not apply to these types of records."

* * * * *

CONTESTING RECORD PROCEDURES:

Delete entry and replace with, "The Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager."

* * * * *

F168 AF SG A

SYSTEM NAME:

Automated Medical/Dental Record System.

SYSTEM LOCATION:

At Air Force medical centers, hospitals and clinics, major command headquarters and separate operating agency headquarters; Air Force Data Service Center, Air Force Medical Service Center, USAF School of Aerospace Medicine, and USAF School of Health Care Sciences. Official mailing addresses are published as an appendix to the Air Force's compilation of systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual who is hospitalized in, is dead on arrival at or has received medical or dental care at an Air Force medical treatment facility. Individuals who have received medical care at other DOD or civilian medical facilities but whose records are maintained at or processed by Air Force medical facilities. Any military active duty member who is on an excused-from-duty status, on quarters, or subsistence elsewhere, on convalescent leave, meets Medical Evaluation Board (MEB), or a Physical Evaluation Board (PEB), on an outpatient basis or who is hospitalized in a non-federal hospital and for whom an Air Force medical facility has assumed administrative responsibility. Any individual who has undergone medical or dental examinations at any Air Force medical facility (or whose records are maintained or processed by the Air Force), e.g., pre-employment examinations and food handlers examinations, or who has otherwise had medical or dental tests performed at any Air Force medical facility.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files consist of automated records of treatment received and medical/dental test performed on an inpatient/outpatient basis in military medical treatment facilities and of military members treated in civilian facilities. These records may include radiographic images and reports, electrocardiographic tracings and reports, laboratory test results and reports, blood gas analysis reports, occupational health records, dental radiographic reports and records, automated cardiac catheterization data and reports, physical examination reports, patient administration and scheduling reports, pharmacy prescriptions and reports, food service reports, hearing conservation tests, cardiovascular fitness examinations and reports, reports of medical waivers granted for flight duty, and other inpatient and outpatient data and reports. They may contain information relating to medical/dental examinations and treatments, inoculations, appointment and scheduling information, and other medical and/or dental information. Subsystems of the Automated Medical/Dental Data System include: Air Force Clinical Laboratory Automation System (AFCLAS)/TRILAB I; Automated Cardiac Catheterization Laboratory System (ACCLS); Computer Assisted Practice of Cardiology (CAPOC) System; DATA STAT Pharmacy System (formerly PROHECA); Occupational Health and Safety System; Patient Appointment and Scheduling System (PAS); Tri-Laboratory System (TRILAB); Tri-Pharmacy System; Tri-Radiology System (TRIRAD); Health Evaluation and Risk Tabulation (HEART).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 55, Medical and Dental Care, and Executive Order 9397.

PURPOSE(S):

Used as a record of patient's medical/dental health, diagnosis, and treatment and disposition while authorized care. Used to help determine individual's qualification for duty, for security clearances and for assignments. Used by an individual or his legal representative for further medical care, legal purposes, or other uses such as insurance requests or compensation and other health care providers for further care of the patient, research teaching, and legal purposes. Used by medical treatment facility staff for evaluation of staff performance in the care rendered; for preparation of statistical reports; for reporting communicable diseases and other conditions required by law to federal and state agencies. Used by Army, Navy, Veterans Administration, Public Health Service or civilian hospitals for continued medical care of the patient. Used by insurance companies, (only with the patient's written consent for release, except as authorized in 10 U.S.C. 1095; for arbitrating insurance claims. Used by other federal agencies such as Veterans Administration and Department of Labor (workmen's compensation) for adjudication of claims; for reporting communicable diseases or other conditions required by law. Used to provide input to other DOD medical records systems including the

Medical Record System (F168 AF SG C), the Dental Personnel Actions (F162 SG A), and other DOD agencies (e.g., Army Navy) when such agency is normally the primary source or repository of medical information about the individual.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system, except as stipulated in "Note" below. Information from the inpatient or outpatient medical records of retirees and dependents may be disclosed to third party payers in accordance with 10 U.S.C. 1095 as amended by Public Law 99–272, for the purpose of collecting reasonable inpatient/outpatient hospital care costs incurred on behalf of retirees or dependents. In addition, records may be disclosed to: (1) Officials and employees of the Veterans Administration in the performance of their official duties relating to the adjudication of veterans claims and in providing medical care to members of the Air Force. (2) Officials and employees of other departments and agencies of the Executive Branch of government upon request in the performance of their official duties relating to review of the official qualifications and medical history of applicants and employees who are covered by this record system and for the conduct of research studies. (3) Private organizations (including educational institutions) and individuals for authorized health research in the interest of the Federal government and the public. When not considered mandatory, patient identification data shall be eliminated from records used for research studies. (4) Officials and employees of the National Research Council in cooperative studies of the National History of Disease; of prognosis and of epidemiology. Each study in which the records of members and former members of the Air Force are used must be approved by the Surgeon General of the Air Force. (5) Officials and employees of local and state governments and agencies in the performance of their official duties pursuant to the laws and regulations governing local control of communicable diseases, preventive medicine and safety programs, child abuse and other public health and welfare programs. (6) Authorized surveying bodies for professional certification and accreditations. (7) The individual's organization or government agency as necessary when required by Federal statute, Executive Order, or by treaty.

Note: Records of identity, diagnosis, prognosis or treatment of any client/patient, irrespective of whether or when he/she ceases to be a client/patient, maintained in connection with the performance of any alcohol/drug abuse, family advocacy, AIDS, or sickle cell prevention and treatment function conducted, requested, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided herein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd–3, 290ee–3, and 21 U.S.C. 1175. These statutes take precedence over the Privacy Act of 1974 in regard to accessibility of such records except to the individual to whom the record pertains. The Department of the Air Force "Blanket Routine Uses" do not apply to these types of records.

RETENTION AND DISPOSAL:

Computer files are retained for variable lengths of time depending upon the type of information involved and the size and mission of the medical treatment facility. Retention time may vary from one day to ten years. Records are disposed of by erasure of the magnetic computer records and destruction of the computer related worksheets on paper, film, or other media by tearing, shredding, pulping, burning or other destructive methods. Identical medical/dental information may be retained for longer periods of time in other medical records systems (such as inpatient or outpatient charts), including the Medical Record System (F168 AF SG C) and Dental Personnel Actions (SG 162 SG A).

SYSTEM MANAGER(S) AND ADDRESS:

Major command and field operating agency headquarters and Air Force Medical Service Center; commanders of USAF medical centers; USAF School of Health Care Sciences; Aerospace Medical Division, Brooks AFB, Texas, and the USAF School of Aerospace Medicine, Brooks AFB, Texas. Official mailing addresses are published as an appendix to the Air Force's compilation of systems notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address inquires to the system manager. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system should address requests to the system manager. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices. Requests should include complete name (including maiden name), sponsor's name, Social Security Number or Service Number of person through whom eligibility is established, category of record desired, year in which treatment was provided, whether treatment was inpatient or outpatient. If the individual establishes eligibility through a sponsor other than self, the request should include the relationship to the sponsor, e.g., spouse, second oldest child, parent, etc.

CONTESTING RECORD PROCEDURES:

The Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is obtained directly from the individual whenever practical and possible; from other individuals when necessary, e.g. when the patient is a child or is in coma; from other medical institutions; from automated systems interfaces; from medical records, and from patient interactions with physicians and other health care providers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F168 AF SG C

SYSTEM NAME:

Medical Record System (51 FR 44357, December 9, 1986).

CHANGES:

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Change "10 U.S.C. 8012" to "10 U.S.C. 8013."

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Delete entry and replace with, "The Department of the Air Force "Blanket Routine uses" published at the beginning of the agency's compilation apply to this system, except as stipulated in "Note" below.

Information from the inpatient or outpatient medical records of retirees and dependents may be disclosed to third party payers in accordance with 10 U.S.C. 1095 as amended by Public Law 99-272, for the purpose of collecting reasonable inpatient/outpatient hospital care costs incurred on behalf of retirees or dependents. Records are used and reviewed by health care providers in the performance of their duties. Health care providers include military and civilian providers assigned to the medical facility where care is being provided. Students participating in a training affiliation program with a USAF medical facility may also use and review records as part of their training program. In addition, records may be disclosed to: (1) Officials and employees of the Veterans Administration in the performance of their official duties relating to the adjudication of veterans claims and in providing medical care to members of the Air Force. (2) Officials and employees of other departments and agencies of the Executive Branch of government upon request in the performance of their official duties relating to review of the official qualifications and medical history of applicants and employees who are covered by this record system and for the conduct of research studies. (3) Private organizations (including educational institutions) and individuals for authorized health research in the interest of the Federal government and the public. When not considered mandatory, patient identification data shall be eliminated from records used for research studies. (4) Officials and employees of the National Research Council in cooperative studies of the National History of Disease; of prognosis and of epidemiology. Each study in which the records of members and former members of the Air Force are used must be approved by the Surgeon General of the Air Force. (5) Officials and employees of local and state governments and agencies in the performance of their official duties pursuant to the laws and regulations governing local control of communicable diseases, preventive medicine and safety programs, child abuse and other public health and welfare programs. (6) Authorized surveying bodies for professional certification and accreditations." (7) The individual's organization or government agency as necessary when required by Federal statute, Executive Order, or by treaty.

Note: Records of identity, diagnosis, prognosis or treatment of any client/patient, irrespective of whether or when he/she ceases to be a client/patient, maintained in connection with the performance of any alcohol/drug abuse, family advocacy, AIDS, or sickle cell prevention and treatment function conducted, requested, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided herein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd-3, 290ee-3, and 21 U.S.C. 1175. These statutes take precedence over the Privacy Act of 1974 in regard to accessibility of such records except to the individual to whom the record pertains. The Department of the Air Force "Blanket Routine Uses" do not apply to these types of records."

* * * * *

CONTESTING RECORD PROCEDURES:

Delete entry and replace with, "The Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12-35; 32 CFR part 806b; or may be obtained from the system manager."

* * * * *

F168 AF SG C

SYSTEM NAME:

Medical Record System.

SYSTEM LOCATION:

Headquarters, United States Air Force, Surgeon General (HQ USAF/SG), medical centers, hospitals and clinics, medical aid stations, National Personnel Record Centers, Air National Guard activities, and Air Force Reserve units. Official mailing addresses are published as an appendix to the Air Force compilation of systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons treated in an Air Force medical facility and active duty members for whom primary care is provided.

CATEGORIES OF RECORDS IN THE SYSTEM:

Inpatient and outpatient records of care received in Air Force medical facilities. Documentation includes, but is not limited to, patient's medical history; physical examination; treatment received; supporting documentation such as laboratory and x-ray reports; cover sheets and summaries of hospitalization; diagnoses; procedures or surgery performed; administrative forms which concern medical conditions such as Line of Duty Determinations; physical profiles, and medical recommendations for flying duty. Secondary files are maintained such as patient registers, nominal indices, x-ray and laboratory files, indices and registers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 55, Medical and Dental Care, 10 U.S.C. 8013, Secretary of the Air Force; powers and duties; delegation by, and Executive Order 9397.

PURPOSES:

Used to document, plan, and coordinate the health care of patients; aid in preventative health and communicable disease control programs; determine eligibility and suitability for benefits for various programs; adjudicate claims; evaluate care rendered; teach compile statistical data, and conduct research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system, except as stipulated in "Note" below.

Information from the inpatient or outpatient medical records of retirees and dependents may be disclosed to third party payers in accordance with 10 U.S.C. 1095 as amended by Public Law 99-272, for the purpose of collecting reasonable inpatient/outpatient hospital care costs incurred on behalf of retirees or dependents. Records are used and reviewed by health care providers in the performance of their duties. Health care providers include military and civilian providers assigned to the medical facility where care is being provided. Students participating in a training affiliation program with a USAF medical facility may also use and review records as part of their training program. In addition, records may be disclosed to: (1) Officials and employees of the Veterans Administration in the performance of their official duties relating to the adjudication of veterans claims and in providing medical care to members of the Air Force. (2) Officials and employees of other departments and agencies of the Executive Branch of government upon request in the performance of their official duties relating to review of the official qualifications and medical history of applicants and employees who are covered by this record system and for the conduct of research studies. (3) Private organizations (including educational institutions) and individuals for authorized health research in the

interest of the Federal government and the public. When not considered mandatory, patient identification data shall be eliminated from records used for research studies. (4) Officials and employees of the National Research Council in cooperative studies of the National History of Disease; of prognosis and of epidemiology. Each study in which the records of members and former members of the Air Force are used must be approved by the Surgeon General of the Air Force. (5) Officials and employees of local and state governments and agencies in the performance of their official duties pursuant to the laws and regulations governing local control of communicable diseases, preventive medicine and safety programs, child abuse and other public health and welfare programs. (6) Authorized surveying bodies for professional certification and accreditations. (7) The individual's organization or government agency as necessary when required by Federal statute, Executive Order, or by treaty.

Note: Records of identity, diagnosis, prognosis or treatment of any client/patient, irrespective of whether or when he/she ceases to be a client/patient, maintained in connection with the performance of any alcohol/drug abuse, family advocacy, AIDS, or sickle cell prevention and treatment function conducted, requested, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided herein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd–3, 290ee–3, and 21 U.S.C. 1175. These statutes take precedence over the Privacy Act of 1974 in regard to accessibility of such records except to the individual to whom the record pertains. The Department of the Air Force "Blanket Routine Uses" do not apply to these types of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in paper and machine-readable form.

RETRIEVABILITY:

By name, Social Security Number, or by Military Service Number.

SAFEGUARDS:

Records are accessed by commanders of medical centers, hospitals, and clinics; by custodian of the record system, and by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets.

RETENTION AND DISPOSAL:

While on active duty, the Health Record of a US military member is maintained at the medical unit at which the person receives treatment. On separation or retirement, records are forwarded to National Personnel Records Center/Military Personnel Records (NPRC/MPR) or other designated depository, such as Commandant, US Coast Guard for that agency's personnel, to appropriate Veterans Administration (VA) Regional Office if a VA claim has been filed. Records of non-active duty personnel may be handcarried or mailed to the next military medical facility at which treatment will be received or the records are retained at the treating facility for a minimum of 1 year after date of last treatment then retire to NPRC or other designated depository, such as, but not limited to, Medical Director, American Red Cross, Washington, DC 20006 for Red Cross personnel. At NPRC records for military personnel are retained for 50 years after date of last document, for all others 25 years.

SYSTEM MANAGER(S) AND ADDRESS:

The Surgeon General, Headquarters United States Air Force. Chief of Air Force Reserve, Headquarters United States Air Force. Director of Air National Guard, Headquarters United States Air Force. Commanders of medical centers, hospitals, clinics, medical aid stations; Commander, Air Force Manpower and Personnel Center. Official mailing addresses are published as an appendix to the Air Force's compilation of system notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contain information about themselves should address inquiries to the system manager. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system should address requests to the system manager. Official mailing addresses are published as an appendix to the Air Force's compilation of systems notices.

Requester must submit full name; Social Security Number (or Military Service Number) through whom eligibility for care is established; date (at least year) treatment was provided; name of facility providing treatment, and whether treatment was as inpatient or outpatient.

RECORD ACCESS PROCEDURES:

CONTESTING RECORD PROCEDURES:

The Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 1806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Physicians and other patient care providers such as nurses, dietitians, and physicians assistants. Administrative forms are completed by appropriate military or civilian officials.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 92–12376 Filed 6–9–92; 8:45 am]
BILLING CODE 3819–01–F

Department of the Navy

Privacy Act of 1974; Amend and Delete Record Systems

AGENCY: Department of the Navy, DOD.
ACTION: Amend and delete record systems.

SUMMARY: The Department of the Navy proposes to delete one and amend five existing systems of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The deletion and amendments will be effective on July 10, 1992, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Head, PA/FOIA Branch, Office of the Chief of Naval Operations (OP–09B30), Department of the Navy, The Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn Aitken at (703) 614–2004.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems of records notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, were published in the **Federal Register** as follows:

51 FR 12908, Apr. 16, 1986
51 FR 18086, May 16, 1986 (DON Compilation changes follow)
51 FR 19884, Jun. 3, 1986
51 FR 30377, Aug. 26, 1986
51 FR 30393, Aug. 26, 1986

51 FR 45931, Dec. 23, 1986
52 FR 2147, Jan. 20, 1987
52 FR 2149, Jan. 20, 1987
52 FR 8500, Mar. 18, 1987
52 FR 15530, Apr. 29, 1987
52 FR 22671, Jun. 15, 1987
52 FR 45846, Dec. 2, 1987
53 FR 17240, May 16, 1988
53 FR 21512, Jun. 8, 1988
53 FR 25363, Jul. 6, 1988
53 FR 39499, Oct. 7, 1988
53 FR 41224, Oct. 20, 1988
54 FR 8322, Feb. 28, 1989
54 FR 14378, Apr. 11, 1989
54 FR 32682, Aug. 9, 1989
54 FR 40160, Sep. 29, 1989
54 FR 41495, Oct. 10, 1989
54 FR 43453, Oct. 25, 1989
54 FR 45781, Oct. 31, 1989
54 FR 48131, Nov. 21, 1989
54 FR 51784, Dec. 18, 1989
54 FR 52976, Dec. 26, 1989
55 FR 21910, May 30, 1990 (Updated Navy Mailing Addresses)
55 FR 37930, Sep. 14, 1990
55 FR 42758, Oct. 23, 1990
55 FR 47508, Nov. 14, 1990
55 FR 48678, Nov. 21, 1990
55 FR 53167, Dec. 27, 1991
56 FR 424, Jan. 4, 1991
56 FR 12721, Mar. 27, 1991
56 FR 27503, Jun. 14, 1991
55 FR 28144, Jun. 19, 1991
56 FR 31394, Jul. 10, 1991 (DOD Updated Indexes)
56 FR 40877, Aug. 16, 1991
56 FR 46167, Sep. 10, 1991
56 FR 59217, Nov. 25, 1991
56 FR 63503, Dec. 4, 1991
57 FR 2719, Jan. 23, 1992
57 FR 2726, Jan. 23, 1992
57 FR 2898, Jan. 24, 1992
57 FR 5430, Feb. 14, 1992
57 FR 9246, Mar. 17, 1992
57 FR 12914, Apr. 14, 1992
57 FR 14698, Apr. 22, 1992

The deletion and amendments are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of altered systems reports. The specific changes to the systems of records are set forth below followed by the systems of records notices published in their entirety, as amended.

Dated: June 4, 1992.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DELETION
N01513-1

SYSTEM NAME: Navy Recruiting Command Attrition Tracking System (51 FR 18124, May 16, 1986).

Reason: Information is not retrieved or maintained by personal identifier.

AMENDMENTS
N01001-3

SYSTEM NAME:

Naval Reserve Intelligence/Personnel File (51 FR 18088, May 16, 1986).

CHANGES:

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "Name, Social Security Number, individual's residence history, education, professional qualifications, occupational history, foreign country travel and knowledge, foreign language capabilities, history of active military duty assignments and military promotions."

* * * * *

STORAGE:

Delete entry and replace with "Computerized floppy/hard disk; microform; and paper records."

RETRIEVABILITY:

Delete entry and replace with "Name, Social Security Number, or any other record element."

SAFEGUARDS:

Delete entry and replace with "Controlled access within a Sensitive Compartmented Information Facility."

RETENTION AND DISPOSAL:

Records are maintained for a period of five years after last data filed and then destroyed.

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commander, Naval Intelligence Command, 4600 Silver Hill Road, Washington, DC 20389–5000.

The request should contain the full name of the requester, home address and date and place of birth. A notarized statement or unsworn declaration subscribed to be true under penalty of perjury is required for identity verification."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Commander, Naval Intelligence Command, 4600 Silver Hill Road, Washington, DC 20389–5000.

The request should contain the full name of the requester, home address and date and place of birth. A notarized statement or unsworn declaration subscribed to be tru under penaly of perjury is required for identity verification."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Navy rules for accessing records and contesting contents and appealing determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager."

RECORD SOURCE CATEGORIES:

Delete entry and replace with "Reserve data submitted by the individual and investigative reports from the Naval Investigative Service."

* * * * *

N01001-3

SYSTEM NAME:

Naval Reserve Intelligence/Personnel File.

SYSTEM LOCATION:

Naval Intelligence Command, 4600 Silver Hill Road, Washington, DC 20389–5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All officers and enlisted personnel of the Naval Reserve Intelligence Program and applicants for affiliation with the program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number, individual's residence history, education, professional qualifications, occupational history, foreign country travel and knowledge, foreign language capabilities, history of active military duty assignments and military promotions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Security Act of 1947, as amended; 5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 503, Department of the Navy; 10 U.S.C. 6011, Navy Regulations; 44 U.S.C. 3101, Records Management by Federal Agencies, and Executive Order 9397.

PURPOSE(S):

To determine qualifications for members of the Naval Reserve Intelligence Program and to provide a personnel management device for career development programs, manpower and personnel requirements for program activities, assignment of support

projects of the reserve program and mobilization planning requirements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computerized floppy/hard disk; microform; and paper records.

RETRIEVABILITY:

Name, Social Security Number, or any file element.

SAFEGUARDS:

Controlled access within a Sensitive Compartmented Information Facility.

RETENTION AND DISPOSAL:

Records are maintained for a period of five years after last data filed and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Intelligence Command, 4600 Silver Hill Road, Washington, DC 20389–5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commander, Naval Intelligence Command, 4600 Silver Hill Road, Washington, DC 20389–5000.

The request should contain the full name of the requester, home address and date and place of birth. A notarized statement or unsworn declaration subscribed to be true under penalty of perjury is required for identity verification.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Commander, Naval Intelligence Command, 4600 Silver Hill Road, Washington, DC 20389–5000.

The request should contain the full name of the requester, home address and date and place of birth. A notarized statement or unsworn declaration subscribed to be true under penalty of perjury is required for identity verification.

CONTESTING RECORD PROCEDURES:

The Department of the Navy rules for accessing records and contesting contents and appealing determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Reserve data submitted by the individual and investigative reports from the Naval Investigative Service.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N01070–7

SYSTEM NAME:

Resale System Military Management Information System (51 FR 18097, May 16, 1986).

Changes:

SYSTEM NAME:

Delete entry and replace with "NEXCOM Military Personnel Information System"

SYSTEM LOCATION:

Delete entry and replace with "Navy Exchange Service Command (NEXCOM), Naval Station New York, Staten Island, NY 10305–5097."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with "Present and past military officers and key enlisted personnel assigned to the Navy Exchange System."

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "Name; rank or rate; dependency status; Social Security Number; designation; date of rank; date reported; rotation date; educational level; lineal number; location of assignments; preference of assignment, biographical information, and orders."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 5031; and Executive Order 9397."

PURPOSE(S):

Delete entry and replace with "To assist officials and employees of the Navy Exchange Service Command in the management, supervision, and administration of its personnel."

* * * * *

STORAGE:

Delete entry and replace with "Computerized records, printed reports, card files, and file folders."

RETRIEVABILITY:

Delete entry and replace with "Name and Social Security Number."

SAFEGUARDS:

Delete entry and replace with "Supervised office spaces and computers are accessible only through the computer center whose entry is limited to authorized personnel only. All information is maintained in locked file cabinets or locked archives. Computer systems are password protected."

RETENTION AND DISPOSAL:

Delete entry and replace with "Destroyed three years following an individual's discharge/retirement from the Navy."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Policy Official: Commander, Navy Exchange System, Naval Station New York, Staten Island, NY 10305–5097.

Record Holder: Director, Navy Exchange Service Command, Naval Station New York, Staten Island, NY 10305–5097."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Director, Navy Exchange Service Command, Naval Station New York, Staten Island, NY 10305–5097.

Written requests must include full name, Social Security Number and military duty status. At the time of a personal visit, the requester must provide proof of identity containing the requester's signature."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Director, Navy Exchange Service Command, Naval Station New York, Staten Island, NY 10305–5097.

Written requests must include full name, Social Security Number and military duty status. At the time of a personal visit, the requester must provide proof of identity containing the requester's signature."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager."

RECORD SOURCE CATEGORIES:

Delete entry and replace with "U.S. Navy Manpower Information System; Bureau of Naval Personnel; the individual; and the individual's supervisor."

* * * * *

N01070-7

SYSTEM NAME:

NEXCOM Military Personnel Information System.

SYSTEM LOCATION:

Navy Exchange Service Command, Naval Station New York, Staten Island, NY 10305-5097.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and past military officers and key enlisted personnel assigned to the Navy Exchange System.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name; rank or rate; dependency status; Social Security Number; designation; date of rank; date reported; rotation date; educational level; lineal number; location of assignments; preference of assignment, biographical information, and orders.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 5031; and Executive Order 9397.

PURPOSE(S):

To assist officials and employees of the Navy Exchange Service Command in the management, supervision, and administration of its personnel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems of records apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computerized records, printed reports, card files, and file folders.

RETRIEVABILITY:

Name and Social Security Number.

SAFEGUARDS:

Supervised office spaces and computers are accessible only through the computer center whose entry is limited to authorized personnel only. All information is maintained in locked file cabinets or locked archives. Computer systems are password protected.

RETENTION AND DISPOSAL:

Destroyed three years following an individual's discharge/retirement from the Navy.

SYSTEM MANAGER(S) AND ADDRESS:

Policy Official: Commander, Navy Exchange System, Naval Station New York, Staten Island, NY 10305-5097.

Record Holder: Director, Navy Exchange Service Command, Naval Station New York, Staten Island, NY 10305-5097.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Director, Navy Exchange Service Command, Naval Station New York, Staten Island, NY 10305-5097.

Written requests must include full name, Social Security Number and military duty status. At the time of a personal visit, the requester must provide proof of identity containing the requester's signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Director, Navy Exchange Service Command, Naval Station New York, Staten Island, NY 10305-5097.

Written requests must include full name, Social Security Number and military duty status. At the time of a personal visit, the requester must provide proof of identity containing the requester's signature.

CONTESTING RECORD PROCEDURES:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

U.S. Navy Manpower Information System; Bureau of Naval Personnel; the individual; and the individual's supervisor.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N01211-1

SYSTEM NAME:

Naval Research Reserve Program Personnel Accounting System (51 FR 18105, May 16, 1986).

CHANGES:

SYSTEM NAME:

Delete entry and replace with "Naval Technology Mobilization Personnel Data"

SYSTEM LOCATION:

Delete entry and replace with "Office of the Chief of Naval Research, 800 North Quincy Street, Arlington, VA 22217-5000."

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "Military identification information, including Naval Officer Billet Codes, plus professional qualifications information, including education and occupation."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "5 U.S.C. 301, Departmental Regulations and Executive Order 9397."

PURPOSE(S):

Delete entry and replace with "To effectively manage the Office of the Chief of Naval Research headquarters reserve unit. These records are used to maintain the unit's mobilization readiness."

* * * * *

STORAGE:

Delete entry and replace with "Paper records kept in a folder and stored in a file cabinet."

RETRIEVABILITY:

Delete entry and replace with "Name."

SAFEGUARDS:

Delete entry and replace with "Records kept in controlled access building; in a file cabinet under control of authorized personnel; and the office space in which the cabinet is located is locked outside official working hours."

RETENTION AND DISPOSAL:

Delete entry and replace with "Physically destroyed annually and updated on an annual basis."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Reserve Coordinator, Code 01RM, Office of the Chief of Naval Research, Arlington, VA 22217–5000."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Reserve Coordinator, Code 01RM, Office of the Chief of Naval Research, Arlington, VA 22217–5000.

Requests should contain full name, rank, and Social Security Number. Personal visits may be made to the same address. Visitors must be prepared to show Naval Research ID Card."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Reserve Coordinator, Code 01RM, Office of the Chief of Naval Research, Arlington, VA 22217–5000.

Requests should contain full name, rank, and Social Security Number. Personal visits may be made to the same address. Visitors must be prepared to show Naval Research ID Card."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager."

RECORD SOURCE CATEGORIES:

Delete entry and replace with "Provided by individual upon first reporting to reserve unit."

* * * * *

N01211–1

SYSTEM NAME:

Naval Technology Mobilization Personnel Data.

SYSTEM LOCATION:

Office of the Chief of Naval Research, 800 North Quincy Street, Arlington, VA 22217–5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Research reserve personnel, officer and enlisted.

CATEGORIES OF RECORDS IN THE SYSTEM:

Military identification information, including Naval Officer Billet Codes, plus professional qualifications information, including education and occupation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations and Executive Order 9397.

PURPOSE(S):

To effectively manage the Office of the Chief of Naval Research headquarters reserve unit. These records are used to maintain the unit's mobilization readiness.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems of records apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records kept in a folder and stored in a file cabinet.

RETRIEVABILITY:

Name.

SAFEGUARDS:

Records kept in controlled access building; in a file cabinet under control of authorized personnel; and the office space in which the cabinet is located is locked outside official working hours.

RETENTION AND DISPOSAL:

Physically destroyed annually and updated on an annual basis.

SYSTEM MANAGER(S) AND ADDRESS:

Reserve Coordinator, Code 01RM, Office of the Chief of Naval Research, Arlington, VA 22217–5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Reserve Coordinator, Code 01RM, Office of the Chief of Naval Research, Arlington, VA 22217–5000.

Requests should contain full name, rank, and Social Security Number. Personal visits may be made to the same address. Visitors must be prepared to show Naval Research ID Card.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Reserve Coordinator, Code 01RM, Office of the Chief of Naval Research, Arlington, VA 22217–5000.

Requests should contain full name, rank, and Social Security Number. Personal visits may be made to the same address. Visitors must be prepared to show Naval Research ID Card.

CONTESTING RECORD PROCEDURES:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Provided by individual upon first reporting to reserve unit.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N05100–1

SYSTEM NAME:

Diving Log (51 FR 18140, May 16, 1986).

CHANGES:

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with "Navy military personnel and civilian employees of the Navy who are involved in diving or who have been exposed to a hyperbaric environment."

* * * * *

PURPOSE(S):

Delete entry and replace with "To furnish the commanding officer with a summarized diving report for individuals attached to the unit and to monitor types of dives, equipment usage, and mishap trends. To evaluate the diving program in the Navy and at specific activities. Pertinent individual records and/or statistical summaries prepared by Naval Safety Center analysts are also provided to all echelons within the Navy having a responsibility for the diving program and to the Bureau of Naval Personnel, Bureau of Medicine and Surgery, Naval Audit Service, or other activities having responsibility for the administration or control of personnel assignments and hazardous duty payments."

* * * * *

RETRIEVABILITY:

Delete entry and replace with "Records may be selected based on any

of the data elements contained in the file such as diver's name, Social Security Number, organization unit, type of dive and equipment used."

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with "Permanent. Magnetic tape files contain all available records and are never purged. Reports are not transferred to a records center."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Director of Afloat Safety Programs, Naval Safety Center, Naval Air Station, Norfolk, VA 23511–5796."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Director of Afloat Safety Programs, Naval Safety Center, Naval Air Station, Norfolk, VA 23511–5796.

Requests should contain full name, address, military status and Social Security Number in order to determine if the system contains any records pertaining to them. Personal visitors will be required to produce military or comparable civilian identification cards."

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to Director of Afloat Safety Programs, Naval Safety Center, Naval Air Station, Norfolk, VA 23511–5796.

Requests should contain full name, address, military status and Social Security Number in order to determine if the system contains any records pertaining to them. Personal visitors will be required to produce military or comparable civilian identification cards."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager."

* * * * *

N05100–1

SYSTEM NAME:

Diving Log.

SYSTEM LOCATION:

Naval Safety Center, Naval Air Station, Norfolk, VA 23511–5796.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Navy military personnel and civilian employees of the Navy who are involved in diving or who have been exposed to a hyperbaric environment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Diving Log Report.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations and Executive Order 9397.

PURPOSE(S):

To furnish the commanding officer with a summarized diving report for individuals attached to the unit and to monitor types of dives, equipment usage, and mishap trends. To evaluate the diving program in the Navy and at specific activities. Pertinent individual records and/or statistical summaries prepared by Naval Safety Center analysts are also provided to all echelons within the Navy having a responsibility for the diving program and to the Bureau of Naval Personnel, Bureau of Medicine and Surgery, Naval Audit Service, or other activities having responsibility for the administration or control of personnel assignments and hazardous duty payments.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems of records apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape.

RETRIEVABILITY:

Records may be selected based on any of the data elements contained in the file such as diver's name, Social Security Number, organization unit, type of dive and equipment used.

SAFEGUARDS:

A limited number of data processing personnel have access to the computer facility and to the magnetic tape files and computer programs. All requests for information received from activities or for purposes not directly related to the diving program must be approved by the Commander, Naval Safety Center or his designated representative.

RETENTION AND DISPOSAL:

Magnetic tape files contain all available records and are never purged. Reports are not transferred to a records center.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Afloat Safety Programs, Naval Safety Center, Naval Air Station, Norfolk, VA 23511–5796.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Director of Afloat Safety Programs, Naval Safety Center, Naval Air Station, Norfolk, VA 23511–5796.

Requests should contain full name, address, military status and Social Security Number in order to determine if the system contains any records pertaining to them. Personal visitors will be required to produce military or comparable civilian identification cards.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to Director of Afloat Safety Programs, Naval Safety Center, Naval Air Station, Norfolk, VA 23511–5796.

Requests should contain full name, address, military status and Social Security Number in order to determine if the system contains any records pertaining to them. Personal visitors will be required to produce military or comparable civilian identification cards.

CONTESTING RECORD PROCEDURES:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Commanding Officer of naval units conducting diving or hyperbaric exposure incident to diving.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N05870–1

SYSTEM NAME:

Patent, Invention, Trademark, Copyright, and Royalty Files (51 FR 18177, May 16, 1986).

CHANGES:

SYSTEM NAME:

Delete entry and replace with "Patent, Invention, Trademark, Copyright, Royalty, and License Files"

SYSTEM LOCATION:

Delete entry and replace with "Office of the Chief of Naval Research, 800 North Quincy Street, Arlington, VA 22217–5000."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

At end of entry, add "and licensees of Government owned inventions in the custody of the Secretary of the Navy.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "10 U.S.C. 5022."

PURPOSE(S):

In line 16, after the word "awards" insert "and to license inventions."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete paragraph three.

STORAGE:

At end of entry, add "and electronic computer memory."

RETRIEVABILITY:

In line one delete "patent" and replace with "invention".

SAFEGUARDS:

At end of entry, add "and on computer memory accessible only be authorized personnel in the Office of Counsel."

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Counsel, Code OOCC, Office of the Chief of Naval Research, Arlington, VA 22217–5000."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Counsel, Code OOCC, Office of the Chief of Naval Research, Arlington, VA 22217–5000."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Assistant Counsel, Code OOCC, Office of the Chief of Naval Research, Arlington, VA 22217–5000."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager."

RECORD SOURCE CATEGORIES:

In line five, delete sentence beginning with "Information" and ending on line nine with "supervisors."

* * * * *

N05870–1

SYSTEM NAME:

Patent, Invention, Trademark, Copyright, Royalty, and License Files.

SYSTEM LOCATION:

Office of the Chief of Naval Research, 800 North Quincy Street, Arlington, VA 22217–5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Inventors and patent owners of inventions in which Government has an interest or which Department of the Navy has evaluated; copyright owners of works in which Government has an interest; claimants or parties in administrative proceedings or litigation with the Government involving patents, copyrights or trademarks and licensees of Government owned inventions in the custody of the Secretary of the Navy.

CATEGORIES OF RECORDS IN THE SYSTEM:

Invention disclosures; disposition of rights in inventions of Government employees; patent applications and patented files; patent licenses and assignments; patent secrecy orders; copyright licenses and assignments; patent and copyright royalty matters; administrative claims and litigation with the Government involving patents, copyrights and trademarks including private relief legislation involving these matters; and documents and correspondence relating to the foregoing.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5022.

PURPOSE(S):

Used by Navy patent personnel to determine rights of the Government and employees in employee inventions; to file and prosecute patent applications; to publish invention disclosures for public information and defensive purposes; to provide evidence and record of Government interest in or under patents or applications for patents; to provide evidence and record or patent and copyright licensing and assignment; to determine action or recommended action regarding disposition of claims or litigation; and to recommend Government employee incentive awards, and to license inventions. Used by other Navy/Marine Corps commands to determine Government interest in inventions; to permit utilization of inventions; and to support employee incentive awards.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To officials and employees of the U.S. Patent and Trademark Office to determine respective rights of the Government and employee-inventors and to evidence legal interests in patent and copyright licenses and assignments; and for the prosecution of patent applications.

To the Commissioner of Patents and Trademarks to administer patent secrecy responsibilities.

To appropriate foreign government offices for prosecution of patent applications.

To officials and employees of the U.S. Copyright Office to evidence legal interests in patent and copyright licenses and assignments.

To the National Technical Information Service for publication of inventions available for licensing; non-governmental personnel (including contractors and prospective contractors) having an identified interest in particular inventions and Government rights therein, in infringement of particular patents or copyrights, or in allowance of royalties of contracts.

To the Congress in the form of reports on particular bills for private relief and reports of action on Congressional and constituent requests.

To government agencies involved in claims or litigation, including the Department of Justice, who have access to prosecute and defend cases.

To all government agencies who have access to license records.

To parties involved in particular licensing arrangements who have access to specific files involved.

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems of records also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and card files and electronic computer memory.

RETRIEVABILITY:

Subject matter; Navy invention case number; name of inventor, patentee, copyright owner, claimant or correspondent.

SAFEGUARDS:

Maintained in safes and file cabinets in controlled spaces accessible only by authorized personnel who are properly instructed in the permissible use of the information and on computer memory accessible only be authorized personnel in the Office of Counsel.

RETENTION AND DISPOSAL:

Maintained indefinitely, but records are transferred to the Federal Records Center two years after completed action on case to which record relates.

SYSTEM MANAGER(S) AND ADDRESS:

Counsel, Code OOCC, Office of the Chief of Naval Research, Arlington, VA 22217–5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Counsel, Code OOCC, Office of the Chief of Naval Research, Arlington, VA 22217–5000.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Assistant Counsel, Code OOCC, Office of the Chief of Naval Research, Arlington, VA 22217–5000.

CONTESTING RECORD PROCEDURES:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from individual inventor, patent or copyright owner, claimant, licensor or licensee, or from U.S. Patent and Trademark Office, or from U.S. Copyright Office.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 92–13472 Filed 6–9–92; 8:45 am]

BILLING CODE 3810–01–F

Department of the Army

Availability of Final Impact Statement for the Realignment of the 5th Infantry Division (Mechanized) From Fort Polk, LA, to Fort Hood, TX

AGENCY: United States Army, DOD.

SUMMARY: The realignment of the 5th Infantry Division (Mechanized) to Fort Hood, Texas, from Fort Polk, Louisiana, was mandated by Public Law 101–510, the Defense Base Closure and Realignment Act of 1990. The document focuses on the environmental and socioeconomic impacts and mitigations associated with the receiving of the division at Fort Hood, Texas.

The final EIS indicates there may be some significant enviromental impacts associated with the move of the 5th Infantry Division (Mechanized). However, the document identifies mitigations for all potentially significant impacts. Thus, these impacts will not impede the move. There are some significant socioeconomic impacts related to the population increase as a result of the realignment. These, however, are expected to have primarily positive impacts on the local economy.

Copies of the final EIS will be mailed to individuals who attended the public meetings. Copies will be sent to city, county and federal officials, civic organizations, and public libraries. Individuals not currently on the mailing list may obtain a copy of the final EIS by contacting U.S. Army Corps of Engineers, Fort Worth District, ATTN: CESWF–PL–RE, 819 Taylor Street, Fort Worth, Texas 76102–0300 or calling (817) 334–3246.

Lewis D. Walker,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health), Office of the Assistant Secretary of the Army (Installations, Logistics and Environment).

[FR Doc. 92–13605 Filed 6–9–92; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Office of Technical Assistance Conservation and Renewable Energy

Award Based on Acceptance of an Unsolicited Application; National Association of State Energy Officials (NASEO)

AGENCY: Department of Energy (DOE).

ACTION: Notice of noncompetitive financial assistance award.

SUMMARY: DOE, Office of Technical Assistance Conservation and Renewable Energy through the Philadelphia Support Office, announces that, pursuant to the DOE Financial Assistance Rules 10 CFR 600.14(f), DOE intends to award a grant to the NASEO. The anticipated overall objective is to identify the regulation and enforcement requirements of the Clean Air Act Amendments on the part of state energy officials and public commissions.

SUPPLEMENTARY INFORMATION: In this project, the NASEO, in conjunction with the Center of Clean Air Policy, will help state energy officials and state utility commissions explore the linkages between state energy policies and clean air, particularly the potential role of conservation and renewables in addressing acid rain control. Emphasis will be on the importance and potential economic value of incorporating conservation and renewables into utilities' overall acid rain compliance strategies in its acid rain compliance strategies. Particular emphasis will be placed on explaining how regulatory reform, specifically rate-making reform which allows utilities to make as much profit on conservation investments as on supply-side investments, would lead to greater reliance on conservation in both utilities' long-term resource plans and its long-term acid rain compliance strategies. In addition, NASEO will explore to have utilities work with state energy offices on the design and the implementation of conservation programs.

The project period for the grant is twelve (12) months, expected to begin in May 1992. Federal funding will consist of $70,000 from DOE, to be supplemented by an assistance grant of $30,000 from the Environmental Protection Agency (EPA).

DOE knows of no other entity that is conducting or planning to conduct such an effort. This effort is suitable for noncompetitive financial assistance and is not eligible for financial assistance under a recent, current, or planned solicitation.

FOR FURTHER INFORMATION CONTACT: Christopher G. McGowan, Philadelphia Support Office, U.S. Department of Energy, Tenth Floor, 1421 Cherry Street, Philadelphia, Pennsylvania 19102–1492 phone (215) 597–3890.

Issued in Chicago, Illinois on May 27, 1992.

Timothy S. Crawford,

Assistant Manager for Administration.

[FR Doc. 92-13374 Filed 6-9-92; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 1904-008 New Hampshire & Vermont]

New England Power Company; Availability of Environmental Assessment

June 3, 1992.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR part 380 (Order No. 486, 52 FR 47910), the Office of Hydropower Licensing (OHL) has reviewed the application for amendment of license for the Vernon Project (FERC No. 1904).

The proposed amendment includes the redevelopment of the Vernon Project by replacing four existing 2.0-megawatt (MW) turbine/generator units with two new 14-MW units. The proposed change would increase the project's total installed capacity from the presently authorized 24.4 MW to 44.4 MW. Concurrently, the licensee would replace all interior electrical equipment connecting the remaining generator units and the existing control room with modern control systems and a new control room. The Vernon Project is located on the Connecticut River in Cheshire County, New Hampshire and Windham County, Vermont.

The staff of OHL's Division of Project Compliance and Administration has prepared an Environmental Assessment (EA) for the proposed action. In the EA, staff concludes that approval of the amendment of license would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Reference and Information Center, room 3308, of the Commission's Offices at 941 North Capitol Street, NE, Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 92-13565 Filed 6-9-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD92-06863T; Louisiana-12]

State of Louisiana; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

June 3, 1992.

Take notice that on May 26, 1992, the Office of Conservation of the Department of Natural Resources for the State of Louisiana (Louisiana) submitted the above-referenced notice of determination to § 271.703(c)(3) of the Commission's regulations, that a part of the Hosston Formation in DeSoto Parish, Louisiana, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The area of application is described as:

T12N-R15W—Sections 34 and 36
T12N-R14W—Section 31
T11N-R14W—Sections 5 through 7

The notice of determination also contains Louisiana's findings that the referenced part of the Hosston Formation meets the requirements of the Commission's regulations set forth in 18 CFR Part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 92-13562 Filed 6-9-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD92-06865T; Oklahoma-18]

State of Oklahoma; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

June 3, 1992.

Take notice that on May 26, 1992, the Corporation Commission of the State of Oklahoma (Oklahoma) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Spiro Formation underlying a portion of Latimer County qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The designated area consists of Sections 2, 3 and 4, Township 6 North, Range 22 East and Sections 25, 34, 35 and 36, Township 7 North, Range 22 East.

The notice of determination also contains Oklahoma's findings that the referenced portion of the Spiro Formation meets the requirements of the commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 92-13554 Filed 6-9-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD92-06980T, Oklahoma-20]

State of Oklahoma; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formations

June 3, 1992.

Take notice that on June 1, 1992, the Corporation Commission of the State of Oklahoma (Oklahoma) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Atoka Formation underlying portions of Latimer, LeFlore and Pushmataha Counties qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The designated area is more fully described on the appendix.

The notice of determination also contains Oklahoma's findings that the referenced portion of the Atoka Formation meets the requirements of the Commission's regulations set forth in 18 CFR Part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

Appendix

Township 5 North, Range 20 East
Sections 13-36
Township 5 North, Range 19 East
Sections 25-27 and 34-36
Township 4 North, Range 20 East
Sections 1-36
Township 4 North, Range 19 East
Sections 1-3, 10-15 and 19-36
Township 3 North, Range 19 East

Sections 1–18
Township 3 North, Range 20 East
Sections 1–36
Township 4 North, Range 21 East
Sections 19–36
Township 3 North, Range 21 East
Sections 1–36
Township 2 North, Range 20 East
Sections 1–18
Township 2 North, Range 21 East
Sections 4–9 and 16–18

All in Latimer, LeFlore and Pushmataha Counties, Oklahoma.

[FR Doc. 92–13558 Filed 6–9–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. JD92–06946T; Oklahoma–19]

State of Oklahoma; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

June 3, 1992.

Take notice that on June 1, 1992, the Corporation Commission of the State of Oklahoma (Oklahoma submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Heath-Hoxbar Formation underlying a portion of Stephens County qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The designated area consists of Sections 13, 14, 15, 16, 22, 23 and 24, Township 2 North, Range 8 West and Sections 18 and 19, Township 2 North, Range 7 West.

The notice of determination also contains Oklahoma's findings that the referenced portion of the Heath-Hoxbar Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 92–13555 Filed 6–9–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. JD92–06864T Oklahoma–17]

State of Oklahoma; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

June 3, 1992.

Take notice that on May 26, 1992, the Corporation Commission of the State of Oklahoma (Oklahoma) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Spiro Formation underlying a portion of Latimer County qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The designated area consists of sections 22, 23, 24, 25, 26 and 27, Township 5 North, Range 19 East.

The notice of determination also contains Oklahoma's findings that the referenced portion of the Spiro Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 92–13556 Filed 6–9–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. JD92–06862T; Texas–54]

State of Texas; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

June 3, 1992.

Take notice that on May 22, 1992, the Railroad Commission of Texas (Texas) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Hirsch Sand Formation in portions of La Salle and Webb Counties, Texas, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The designated area, consisting of approximately 6,700 acres, is described in the attached appendix.

The notice of determination also contains Texas's findings that the referenced portion of the Hirsch Sand Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

Appendix

The recommended Hirsch Sand Formation is located in La Salle and Webb Counties, Texas, within Railroad Commission Districts 1 and 4. The area of application covers approximately 6,700 acres and consists of all or portions of the following surveys:

Survey name	Survey No.	Abstract No.	County	Area
Ed. B. Kotula	42	1798	La Salle	165.0 Por.
BS & F	73	93	La Salle	521.0 Por.
K. Buckley	76	961	La Salle	222.0 Por.
Mrs. E. Clark	76½	1477	La Salle	162.5 Por.
T. B. Poole	42	1774	La Salle	320.0 All.
J. M. Smith	40	1775	La Salle	640.0 All.
BS & F	41	115	La Salle	643.5 All.
L Martinez	46	1832	La Salle	211.0 All.
D. M. Level	168	1543 and	Webb	35.0 All
		1826	La Salle	46.0 All.
Atascosa Co	297	3023 and	Webb	1483.0 All.
		1818	La Salle	731.0 All.
L. Martinez	1478	2352	Webb	267.0 All.
GC & SF RR	1239	1306	Webb	613.0 All.
HE & WT RR	1251	1960	WEBB	640.0 All.

[FR Doc. 92–13563 Filed 6–9–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ92-4-21-000]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

June 3, 1992.

Take notice that Columbia Gas Transmission Corporation (Columbia) on May 29, 1992, tendered for filing the following proposed changes to its FERC Gas Tariff, First Revised Volume No. 1, to be effective June 1, 1992.

Nineteenth Revised Sheet No. 26
Eleventh Revised Sheet No. 26.1
Nineteenth Revised Sheet No. 26A
Eleventh Revised Sheet No. 26A.1
Nineteenth Revised Sheet No. 26B
Tenth Revised Sheet No. 26B.1
Eighteenth Revised Sheet No. 26C
Fourth Revised Sheet No. 26C.1
Ninth Revised Sheet No. 26D
Nineteenth Revised Sheet No. 163

Columbia states the sales rates set forth on Eleventh Revised Sheet No. 26.1 reflect an increase of 23.40¢ per Dth in the commodity rate when compared with the total CDS rates currently in effect. In addition, the transportation rates set forth on Eighteenth Revised Sheet No. 26C and Ninth Revised Sheet No. 26D reflect an increase in the Fuel Charge component of 0.56¢ per Dth.

Columbia states that copies of the filing is being mailed to all jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before June 10, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary

[FR Doc. 92-13552 Filed 6-9-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-3-2-000]

East Tennessee Natural Gas Co.; Notice of Rate Filing

June 3, 1992.

Take notice that on May 29, 1992, East Tennessee Natural Gas Company (East Tennessee), tendered for filing Twenty First Revised Sheet Nos. 4 and 5 to First Revised Volume No. 1 of its FERC Gas Tariff to be effective June 1, 1992.

East Tennessee states that the purpose of the instant filing is to implement an out-of-cycle PGA rate adjustment to East Tennessee's's current rate, to be effective from June 1, 1992 to June 30, 1992. East Tennessee further states that the total change in the East Tennessee Rate from the last schedule PGA is $0.1310 per dekatherm.

East Tennessee is requesting waiver of the Commission's regulations to cease the flow through of its ($0.0869) 191 surcharge effective June 1, 1992. East Tennessee believes that it is in the public interest to waive the regulations limiting adjustments to the surcharge to the annual filing. East Tennessee further requests a waiver of the thirty day notice requirement.

East Tennessee submits that copies of this filing has been mailed to all affected customers and state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before June 10, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-13566 Filed 6-9-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-179-000]

Florida Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

June 3, 1992.

Take notice that on May 29, 1992, Florida Gas Transmission Company (Florida Gas) tendered for filing the following tariff sheets:

Twenty-Eighth Revised Sheet No. 8
Ninth Revised Sheet No. 8A
Seventh Revised Sheet No. 8B

Florida Gas proposes that these tariff sheets become part of its FERC Gas Tariff, to be effective on July 1, 1992. Copies of the filing are on file with the Commission and are available for public inspection.

Florida Gas states that section 25 of its tariff establishes a mechanism to permit recovery of transition costs via a volumetric surcharge. This rate filing adds $6.9 million of transition costs to the transition cost recovery (TCR) Account, as of April 30, 1992. Florida Gas submitted the documentation of these transition costs in a confidential submission made under § 388.112 of the Commission's Regulations. This data is available to parties to Florida Gas's TCR Proceeding who have signed the appropriate protective agreement with Florida Gas.

In conjunction with this filing, Florida Gas is also requesting waiver of portions of section 25 of the General Terms and Conditions of its FERC Gas Tariff. Such waiver, to the extent necessary, would permit Florida Gas to defer the inclusion of certain other transition costs in the existing TCR Mechanism.

To the extent necessary, Florida Gas requests that the Commission grant waiver of Section 25 of the General Terms and Conditions of its FERC Gas Tariff to:

(i) Allow Florida Gas to defer the inclusion of certain of its transition costs incurred since September 30, 1991,[1] while accruing carrying costs, until eligibility for inclusion under the Order No. 636 transition cost recovery mechanism ("Order No. 636 Mechanism") is determined;

(ii) In the event such costs are determined to be ineligible for recovery under the Order No. 636 Mechanism, allow Florida Gas to file for recovery under its existing TCR Mechanism of any such transition costs (including associated carrying costs) not included for recovery in the Order No. 636 Mechanism.

[1] Florida Gas submitted the documentation of the proposed deferred transition costs in a confidential submission made under §§ 388.112 of the Commission's Regulations. This data is also available to parties to Florida Gas's TCR Proceeding who have signed the appropriate protective agreement with Florida Gas.

Florida Gas says it is not asking the Commission to make an Order No. 636 eligibility determination at this time. Rather, Florida Gas is requesting a waiver of its existing tariff, if necessary, to afford Florida Gas the opportunity to make, at a later date, the section 4 filing contemplated by Order No. 636. Florida Gas says this waiver is in the public interest and does not constitute a burden to any party.

Florida Gas says the deferral of recovery of these costs does *not* change Florida Gas's existing TCR surcharge. Florida Gas's existing TCR surcharge is subject to a 3.5¢ per MMBtu cap. Florida Gas says the amounts for which Florida Gas has already sought recovery under its TCR mechanism are at a level which will result in its TCR surcharge remaining at the 3.5¢ cap through early 1993. Therefore, Florida Gas claims the deferral itself does not have any financial impact on Florida Gas's customers.

Any person desiring to be heard or to protest said filing should file motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with §§ 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before June 12, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene.

Lois D. Cashell,

Secretary.

[FR Doc. 92–13561 Filed 6–9–92; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 5090–005]

City of Idaho Falls, ID; Technical Conference in Washington, DC, Regarding the Proposed Shelley Hydroelectric Project

June 3, 1992.

On Friday, June 12, 1992, from 9 a.m. to 12 p.m., representatives of the applicant and the Commission will hold a technical conference in room 1039 at 810 First Street, NE., Washington, DC 20426.

The primary purpose of the conference is to discuss the applicant's revised riparian habitat mitigative plan and other matters pertaining to the Shelley Project.

At the meeting, parties to the proceeding will have opportunities to ask questions and to comment on the technical issues under discussion. Persons and representatives of entities who are not on the Commission's Service List maintained for Project No. 5090–005 may attend the meeting as spectators only.

For further information, please contact FERC environmental Coordinator, Jim Haimes, at (202) 219–2780.

Lois D. Cashell,

Secretary.

[FR Doc. 92–13564 Filed 6–9–92; 8:45 am]

BILLING CODE 6717–01–M

Docket No. TQ92–5–16–000

National Fuel Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

June 3, 1992

Take notice that on May 29, 1992, National Fuel Gas Supply Corporation (National) tendered for filing the following revised tariff sheet as part of its FERC Gas Tariff, Second Revised Volume No. 1, to become effective July 1, 1992:

Seventh Revised Eighteenth Revised Sheet No. 5

National states that the purpose of this filing is to reflect a quarterly Purchased Gas Cost Adjustment ((PGA). National states that the revised tariff sheet reflects a negative commodity current adjustment of 107.45 cents per dekatherm (Dt), from National's April Quarterly PGA on February 28, 1992, in Docket No. TQ92–4–16–000. National further states that the revised RQ and CD sales commodity rate of 215.03 cents per Dt is based upon a current average cost of purchased gas of 191.54 cents per Dt (in unit purchases), or 205.48 cents per Dt (in unit of sales).

National submits that copies of this filing were served on National's jurisdictional customers and on the regulatory commissions of the states of New York, Ohio, Pennsylvania, Delaware, Massachusetts and New Jersey.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before June 10, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make Protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 92–13559 Filed 6–9–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. TA92–1–86–000, and RP92–180–000]

Pacific Gas Transmission Co.; Notice of Change in Sales Rates Pursuant to Purchased Gas Adjustment

June 3, 1992.

Take notice that on June 1, 1992, Pacific Gas Transmission Company (PGT) submitted for filing pursuant to part 154 of the Commission's regulations under the Natural Gas Act, its Annual Purchased Gas Adjustment filing in accordance with Paragraph 21 of its FERC Gas Tariff, Second Revised Volume No. 1, to be effective August 1, 1992.

PCT states that the filing incorporates PGT's latest projection of purchased gas commodity costs and sales quantities. PGT states that it has also included in the filing is PGT's assessment of past performance and a surcharge calculation for the 12-month deferral period ending March 31, 1992.

PGT states that copies of the filing has been served on PGT's jurisdictional sales customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before June 22, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-13568 Filed 6-9-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-183-000]

Paiute Pipeline Co.; Compliance Tariff Filing

June 3, 1992.

Take notice that on June 1, 1992, Paiute Pipeline Company (Paiute) tendered for filing First Revised Sheet No. 81 and Original Sheet No. 81A to be part of its FERC Gas Tariff, First Revised Volume No. 1-A.

Paiute indicates that the purpose of its filing is to revise its tariff in compliance with the Commission's final rule adopted in Order No. 537, issued on September 20, 1991, in which the Commission adopted a revised interpretation of the "on behalf of" standard under section 311 of the Natural Gas Policy Act of 1978. Paiute states that new § 284.102(e) requires that an interstate pipeline obtain from its shippers certifications, including sufficient information, to verify that their transportation services qualify under § 284.102. Paiute proposes to add a new paragraph to its tariff to clarify that it will require such certifications.

Paiute requests that the tendered tariff sheets be accepted for filing to become effective July 1, 1992.

Paiute states that copies of the filing were served upon all of Paiute's customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before June 10, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-13569 Filed 6-9-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ92-3-9-000 and TM92-4-9-000]

Tennessee Gas Pipeline Co.; Rate Filing Pursuant to Tariff Rate Adjustment Provisions

June 3, 1992.

Take notice that on May 29, 1992, Tennessee Gas Pipeline Company (Tennessee) filed the following revised tariff sheets to its FERC Gas Tariff to be effective July 1, 1992:

Item A

Third Revised Volume No. 1
Tenth Revised Sheet No. 20
Fourth Revised Sheet No. 20A
Tenth Revised Sheet No. 21
Fourth Revised Sheet No. 21A
Eighth Revised Sheet No. 22

Item B

Third Revised Volume No. 1
Fourth Revised Sheet Nos. 32-37

Item C

Original Volume No. 2
Twenty Seventh Revised Sheet No. 5
Second Revised Sheet No. 5A

Item D

Third Revised Volume No. 1
Fifth Revised Sheet No. 23
Sixth Revised Sheet No. 24
Third Revised Sheet No. 24A
First Revised Sheet No. 28B

Original Volume No. 2
Twenty Fifth Revised Sheet No. 6
Revised Sheet No. 4
First Revised Sheet No. 6A
Ninth Revised Sheet No. 7
First Revised Sheet No. 7A
Tenth Revised Sheet No. 8
First Revised Sheet No. 8A
Ninth Revised Sheet No. 9
First Revised Sheet No. 9A

Tennessee states that the current Purchased Gas Cost Rate Adjustments consist of a $.0773 per dekatherm adjustment applicable to the gas component of Tennessee's sales rates and a $(.12) per dekatherm adjustment applicable to the Demand D1 component.

Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers on its system and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before June 10, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who had previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-13570 Filed 6-9-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA92-1-52-000; TA92-1-52-001]

Western Gas Interstate Co.; Notice of Proposed Changes in FERC Gas Tariff

June 3, 1992.

Take notice that Western Gas Interstate Company (Western), on June 1, 1992, tendered for filing the following tariff sheet to its FERC Gas Tariff, Second Revised Volume No. 1:

Eighth Revised Sheet No. 10

The proposed effective date for the tariff sheet is August 1, 1992.

Western states that its filing proposes changes to its rates in accordance with the terms of the Purchase Gas Adjustment provisions of its FERC Tariff.

Western states that the proposed changes to rates provide for (1) a decrease in cost under Western's Rate Schedule CD-N of $0.1723; and (2) an increase in cost under Western's Rate Schedule CD-S of $0.8093.

Western states that copies of the filing were served upon Western's transmission system customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 385.11 and 385.214 of the Commission's Rules and Regulations. All such motions or protest should be filed on or before June 22, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-13560 Filed 6-9-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-3-35-000]

West Texas Gas, Inc.; Notice of Filing

June 3, 1992.

Take notice that on June 1, 1992, West Texas Gas, Inc. ("WTG") filed Second Revised Sheet No. 4 to its FERC Gas Tariff, Revised Volume No. 1, proposed to be effective July 1, 1992. Second Revised Sheet No. 4 and the accompanying explanatory schedules constitute WTG's quarterly PGA filing submitted in accordance with the Commission's purchased commissions.

WTG states that copies of the filing were served upon WTG's customers and interested state commissions.

Any persons desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 214. All such motions or protests should be filed on or before June 10, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-13553 Filed 6-9-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL92-12-000]

Wisconsin Public Service Corp.; Order Denying Request for Rejection, Accepting for Filing and Suspending Proposed Rates, Establishing Hearing Procedures, Granting Waiver of Notice, and Announcing Policy Regarding Timing of Fuel Adjustment Clause Amendment Proposals

Before Commissioners: Martin L. Allday, Chairman; Charles A. Trabandt, Elizabeth Anne Moler, Jerry J. Langdon and Branko Terzic.

Issued June 2, 1992.

On December 31, 1991, as amended on January 24, 1992, Wisconsin Public Service Corporation (Wisconsin) filed a request for waiver of the requirements applicable to fuel adjustment clauses (FACs) under section 35.14 of the Commission's regulations.[1] Wisconsin seeks Commission authorization to amend its FACs in its rates to 10 wholesale customers [2] so as to permit the passthrough of the wholesale share of costs Wisconsin incurred in terminating certain coal contracts and related coal transportation contracts. Wisconsin specifically requests that the Commission waive the provisions of § 35.14(a)(9) [3] to allow Wisconsin to amend its FACs to provide for the buyout recovery without filing detailed cost support and cost of service data. Wisconsin contends further that many of the documents that support its request for waiver are coal purchase and coal transportation contracts which contain commercially sensitive information which should be shielded from public disclosure under section 388.112 [4] of the Commission's regulations.

As explained further below, we will accept Wisconsin's proposal for fuel clause recovery of its buyout costs, suspend the proposal, and set it for hearing. At Wisconsin's request, we will waive the 60-day prior notice requirement to permit an effective date of January 1, 1992 for Wisconsin's buyout plan. We will leave to the presiding administrative law judge the discretion whether to treat any of Wisconsin's documents as confidential and privileged under the Commission's regulations.

Background

Wisconsin recently entered into buyout agreements with Nerco Coal Sales Company (Nerco) and with Soo Line Railroad. Under the Nerco contract, dated September 20, 1985, as amended, Wisconsin agreed to purchase 75 percent of its coal requirements for its Weston Unit Nos. 1 and 2, and its Pulliam Unit Nos. 3 through 8, for the period 1986 to 2005. Wisconsin also agreed to take approximately 850,000 tons of coal in each year during the period from 1986 to 1995. Wisconsin states that it has agreed to buyout its obligations under the Nerco coal contact from 1992 to 2005 (the year the contract expires). Wisconsin states that its buyout costs for the Nerco contract are approximately $28.3 million.

Under the Soo Line Railroad agreement (effective May 18, 1984), Wisconsin agreed to transport, during the life of the Nerco contract: (1) 70 percent of its coal purchases for the Pulliam units; and (2) 100 percent of its northwestern coal purchases for the Weston units. The Soo Line Railroad agreement requires Wisconsin to transport at least 850,000 tons per year. Wisconsin states that it has agreed to buyout the Soo Line Railroad agreement for approximately $6 million.

In support of its requests for waiver of the requirements applicable to FACs, Wisconsin claims that, as a result of its buyout of the two contracts, it will be able to purchase alternative coal at significantly lower costs. Wisconsin states that it will realize a savings of about $138 million on a total company basis, [5] or about $23.5 million for the affected wholesale customers.[6] Wisconsin calculates these savings as the difference between the coal and transportation costs under the contracts which were bought out, and the costs of replacement coal and transportation. Under its proposal, Wisconsin can recover its buyout costs only to the extent that gross savings exceed total buyout costs. Wisconsin thus concludes that its proposal satisfies the Commission's "benefits test" for fuel clause recovery of buyout costs.[7]

Wisconsin requests that the Commission permit the proposal to become effective January 1, 1992, to "allow the Company to record buyout costs as they are paid and to amortize these costs as buyout related savings are realized by customers." [8] Wisconsin requests that the Commission waive the 60-day prior notice provisions of section 35.3(a) [9] to allow the buyout proposal and FAC amendment to become effective on that date. In the alternative, Wisconsin requests that the part of its original submittal (filed on December 31, 1991) that was not amended by its January 24, 1992 submittal be accepted for filing to become effective January 1, 1992. If the Commission adopts this approach, Wisconsin requests that the part of its original submittal which was

---

[1] 18 CFR 35.14 (1991).

[2] The fuel clause amendments apply to customers served under Wisconsin's W-1, W-2, and W-3 requirements rates.

[3] 18 CFR 35.14(a)(9) (1991) (requiring filings which propose a new FAC or a change in an existing FAC to include, among other things, full cost of service data).

[4] 18 CFR 388.112 (1991).

[5] Wisconsin Amendment to Petition at 2.

[6] Wisconsin Petition at 2.

[7] *See* Kentucky Utilities Company, 45 FERC ¶ 61,409 (1988) (*Kentucky Utilities I*). In *Kentucky Utilities I*, the Commission imposed a requirement that utilities proposing buyout plans, and waiver of the regulations applicable to FACs, must provide "a timely and periodic verification of benefits" of the buyout. 45 FERC at 62,293.

[8] Wisconsin Petition at 5.

[9] 18 CFR 35.3(a) (1991).

amended on January 24, 1992 be accepted for filing to become effective March 25, 1992, sixty days after the date of the amended filing.[10]

Notices of Wisconsin's filings were published in the **Federal Register**, with comments, protests, or interventions due on or before February 18, 1992.[11]

Intervention

On January 28, 1992, the Algoma Group (Algoma) [12] filed a motion to intervene, a request for rejection of Wisconsin's filing or, alternatively, a request for rejection of confidential treatment, and a request for a five-month suspension and hearing.

Algoma requests that the Commission reject the filing because coal contract buyouts have become Wisconsin's *modus operandi*, not a one-time extraordinary decision. Algoma argues that the Commission's decision in Kentucky Utilities I contemplated that pass-throughs of buyouts costs would only be permitted if such costs are a one-time extraordinary expenditure.

In support of its allegations that Wisconsin has a repeated practice of contract buyouts, Algoma contends that the buyouts of the Nerco and Soo Line Railroad contracts are part of a pattern whereby Wisconsin enters into coal contracts which must later be terminated and bought out because they are uneconomic. Algoma states that, in Docket Nos. ER87–44–000, *et al.*,[13].in a similar situation, Wisconsin sought to flow through buyout costs to customers for three coal contracts. Furthermore, Algoma notes that in Docket No. EL89–22–000, [14] Wisconsin sought to flow through buyout costs to customers related to two additional coal contracts. Algoma maintains that Wisconsin entered into the Nerco contract at about the same time it was buying out these contracts. Algoma opines that Wisconsin entered into the Nerco contract without any provisions for renegotiation of price or termination in the event that contract also proved to be uneconomic. Further, Algoma states that Wisconsin had a separate, existing contact with Nerco at the time it signed the Nerco contract at issue here. Under the other Nerco contract, according to Algoma, Wisconsin paid a lower price for coal than under the instant contract. Based on these assertions, Algoma contends that the Commission should not treat these buyout costs the same as an incidental one-time buyout of a coal contract which may yield a benefit to customers. Algoma states that the Commission should instead treat the proposal as it would an abandoned property loss (which, according to Algoma, would be borne in part by utility shareholders).

Algoma alleges that the Soo Line Railroad contract was also used to transport coal from vendors other than Nerco and that the $6 million buyout payment includes costs related to the Nerco contract. Algoma notes that the Wisconsin Public Service Commission (Wisconsin Commission) permitted Wisconsin to recover only $5.4 million of the $6 million.

In further support of its request for rejection, Algoma contends that: (1) Wisconsin has claimed confidential treatment under section 388.112 and, therefore, the filing is lacking all of the specific cost data that would be needed to allow the customers to analyze the filing; and (2) the filing lacks the full cost support required by section 35.14(a)(9).[15]

Algoma objects to Wisconsin's request for confidential treatment of the coal contracts at issue as well as portions of its filed testimony and other support. Algoma maintains that section 388.112 places the burden on Wisconsin to establish some basis for the confidential treatment. Algoma contends that Wisconsin has made no showing why the information should be treated confidentially. While the contracts and the buyout costs may be embarrassing to Wisconsin, the contracts are terminated and parts of the contract are already in the public record. Algoma insists that the burden should be on Wisconsin to make a showing of the reason for confidentiality when it places the customers in the position of having to accept the company's claims with respect to any benefits.

If the Commission does not reject Wisconsin's filing, Algoma requests a five-month suspension for the following reasons: (1) The company has not entered into a replacement coal contract; therefore, neither the price of the replacement coal nor the savings are certain; (2) testimony by Wisconsin representatives before the Wisconsin Commission indicates that Wisconsin does not intend to purchase any new fuel prior to October 1992; (3) the customers lack information because of the company's request for confidentiality; [16] the company's proposed fuel costs lack cost support; (5) the company's decision to enter into the Nerco contract was imprudent; (6) the company's $6 million requested buyout amount for the Soo Line Railroad contract relates to disputes between Wisconsin and the railroad which are not related to the buyout; and (7) the company's carrying charges on the unamortized balance of the proposed buyout costs are excessive.

Algoma also argues that Wisconsin's net benefit test does not appear to track the Commission's requirements enunciated in Kentucky Utilities I and its progeny. Algoma contends that: (1) the proposal's true-up provisions seem to track estimates of net benefits rather than actual savings; (2) the proposal's definition of "replacement coal" quantities includes the minimum takes under the old contract, rather than the actual amount of coal purchased; (3) the proposal's benefits test assumes certain purchases and take-or-pay payments when Wisconsin has indicated excess coal on hand for 1992; and (4) the proposal's benefits test assumes a minimum quantity of coal higher than that contained in the Nerco contract.

Algoma requests that if the Commission sets this case for hearing, that the scope of that hearing should include Wisconsin's imprudence in entering into the Nerco contact. Algoma notes that Wisconsin entered into the Nerco contract at a time when fuel costs were falling, without negotiating a price reopener provision. Such a provision is particularly important in Algoma's view because it contends that the contract

[10] Wisconsin originally negotiated a buyout of the Nerco contract under which it would make: (1) A fixed payment of $18.3 million; and (2) two payments tied to the amount of replacement coal Wisconsin consumes at its Weston and Pulliam units during the period 1992 through 2005. After its initial submittal here, Wisconsin negotiated with Nerco to make a fixed payment of $9.99 million rather than the two payments tied to the amount of replacement coal consumed. In effect, Wisconsin requests that, if the Commission does not grant a January 1, 1992 effective date for the entire submittal, it allow recovery of the $18.3 million payment to Nerco and the $6 million payment to Soo Line Railroad to commence on January 1, 1992, and permit the recovery of the $9.99 million payment to commence on March 25, 1992.

[11] 57 FR 2256 (1992); 57 FR 5145 (1992).

[12] Algoma consists of: the Cities and Villages of Manitowoc, Marshfield, Stratford and Wisconsin Rapids, Wisconsin, the City of Stephenson, Michigan, the Washington Island Electric Cooperative, the Alger Delta Electric Association, and the Wisconsin Public Power Inc., System.

[13] Wisconsin Public Service Corporation, 37 FERC ¶ 61,312 (1986), *reh'g granted*, 38 FERC ¶ 61,174 (1987) (clarifying scope of litigated proceeding to include fuel procurement policies), *settlement accepted*, 40 FERC ¶ 61,386 (1987).

[14] Wisconsin Public Service Corporation, 50 FERC ¶ 61,387 (1990), *settlement accepted*, 54 FERC ¶ 61,279 (1991).

[15] If the Commission does not reject Wisconsin's proposal, Algoma requests that the filing be made deficient for lack of cost data and other support.

[16] Algoma states that Wisconsin is using the fuel clause waiver to obtain a rate increase and, therefore, the Commission should require Wisconsin to include full cost support for its fuel costs. Algoma states that this is especially important since Wisconsin has not filed a full rate case since 1983.

was entered into when the projected load growth in the State of Wisconsin was falling. Algoma also requests a full investigation of the prudence of Wisconsin's fuel procurement program, including all fuel costs passed through to customers under the Nerco contract since its inception. Algoma states that the Commission should order refunds if it determines that certain fuel costs were imprudently incurred.

Algoma objects to Wisconsin's request for waiver of the 60-day prior notice requirement to allow Wisconsin's proposal to go into effect January 1, 1992. In support of its opposition to waiver, Algoma claims that the buyout occurred over six months ago and the company has not offered any reason for failing to file the proposal by November 1, 1991, 60 days before the proposed January 1, 1992 effective date.

Answer

On February 12, 1992, Wisconsin filed an answer to Algoma's pleading. Wisconsin contends that its filing complies with all of the requirements the Commission has established for fuel clause recovery of coal contract buyout costs. Wisconsin maintains that the Commission in Kentucky Utilities II,[17] determined that recovery of fuel contract buyout costs can be accomplished through the fuel clause without a full scale review of the utility's costs. Wisconsin argues further that the Commission has granted similar waivers of the full cost support requirement in several other fuel contract buyout cases.

With respect to Algoma's request for a five-month suspension, Wisconsin contends that the Commission's policy is to limit to one day the suspension of the coal buyout proposals that meet the requirements announced in Kentucky Utilities I. Wisconsin argues that the fact that it does not have in place a replacement coal contract should not affect the effective date of its proposal. Wisconsin notes that if it does not purchase replacement contract or spot market coal, it will not, under the terms of its proposal, recover any buyout costs.

With respect to Algoma's opposition to its request for privileged treatment, Wisconsin claims that it is entitled to protect itself and its customers from the detrimental consequences of disclosing commercially sensitive information. Wisconsin argues that privileged treatment of the coal supply and transportation contracts is consistent with the well-established Commission precedent. Wisconsin also notes that it has included with its filing a proposed protective agreement which would allow Algoma to view all of the documents at issue. Wisconsin notes that this protective agreement is essentially identical to the one that Algoma signed in Docket No. EL89–22–000.

With respect to each of Algoma's concerns regarding the mechanics of the proposal, Wisconsin contends that Algoma raises these concerns out of a misunderstanding of the proposal. For example, Wisconsin states that: (1) The minimum take reflected in the benefits test does not assume a higher minimum take than that contained in the Nerco contract; and (2) while the Wisconsin Commission did not allow recovery of the full $6 million buyout cost associated with the Soo Line Railroad contract, the Wisconsin Commission did so because it believed that Wisconsin's retail fuel clause (different than the wholesale clauses) failed to flow through to retail customers certain refunds Wisconsin received from the Soo Line Railroad.

Noting that Algoma requests that the Commission investigate the prudence of Wisconsin's fuel procurement program, Wisconsin maintains that, consistent with the Commission's action in Kentucky Utilities II, the Commission should refuse to broaden a fuel contract buyout proposal to include a general investigation of the utility's fuel purchase practices. Wisconsin claims that it acted prudently at all times with respect to the Nerco and Soo Line Railroad contracts and that Algoma's assertions are without foundation.

As to Algoma's opposition to Wisconsin's request for waiver of the 60-day prior notice requirement, Wisconsin argues that in Kentucky Utilities I the Commission found that fuel clause recovery plans may take effect as of the date filed. Wisconsin also notes that its requested January 1, 1992 effective date also provides the best match between receipt of the buyout benefits and the payment of the buyout costs.

Other Pleadings

On February 18, 1992 (the final day of the comment period), Algoma filed an amendment to its motion to intervene. Algoma objects to Wisconsin's filing on the ground that there is inadequate information on how the proposal will actually work in practice. Algoma is concerned that buyout costs may be recovered during the year on an estimated basis and that, after the fact, the Commission may determine that Wisconsin incurred no buyout savings in that year.

Algoma also states that, since the savings will be based on the amount of replacement coal purchased for the Weston and Pulliams units, if Wisconsin purchases replacement coal that is less expensive than the Nerco coal, it will dispatch the Weston and Pulliam plants more often and thereby inflate the amount of the savings resulting from the buyout. Algoma also alleges that the proposal is not in compliance with section 205(f) of the Federal Power Act (FPA), 16 U.S.C. § 824d(f) (1988), which requires that the Commission modify automatic adjustment clauses if the clauses violate economic principles.

Finally, Algoma notes that the buyout will significantly reduce the coal inventory at the Weston and Pulliam plants and will produce savings to Wisconsin's shareholders through such a reduction, rather than Wisconsin's ratepayers. Algoma contends that, if the company's shareholders are to share in the benefits of the buyout, they should also share in the costs of the buyout.

On March 3, 1992, Wisconsin filed an answer to Algoma's February 18, 1992 submittal. Wisconsin argues that its recovery of buyout costs is not based on estimates of monthly replacement coal purchases, but rather, the proposed recovery is based on the actual monthly purchases of replacement coal. Wisconsin also states that Algoma's concerns with respect to the redispatch of the Weston and Pulliam units may be proper issues for hearing, but are not a basis for rejection or suspension. Wisconsin points out that stockholders do not support coal inventories since coal inventories are included in rate base and are supported by ratepayers. Additionally, Wisconsin contends that the Commission has, in past cases, rejected the argument that shareholders should absorb part of the buyout costs. Wisconsin also maintains that the proposal will ensure the efficient use of resources, and that Algoma's allegation to the contrary is unsupported.

Discussion

Under Rule 214 of the Commission's Rules of Practice and Procedure, Algoma's timely motion to intervene serves to make it a party to this proceeding.

Section 35.14 of the Commission's regulations, 18 CFR § 35.14 (1991), permits fuel clause recovery of the identifiable costs of fossil and nuclear fuel consumed in the utility's own plants. As the Commission recognized in Kentucky Utilities I,[18] buyout costs—

[17] Kentucky Utilities Co., 49 FERC ¶ 61,008 at 61,029–30 (1989).

[18] 45 FERC ¶ 61,409 (1988).

incurred in obtaining the utility's release from fuel supply contracts—" are the very antithesis of the cost of fuel consumed." Accordingly, "waiver of the fuel clause regulations is required whenever a utility seeks to recover buyout costs in the fuel clause * * *."[19]

In Kentucky Utilities I, the Commission articulated a new policy permitting buyout costs to be passed through fuel clauses, but only to the extent the utility can "demonstrat[e] that ratepayers realize actual savings."[20] Recognizing that a buyout plan could extend for many years, the Commission also imposed a requirement that the utility provide a "timely and periodic verification of benefits."[21]

Our decision in Kentucky Utilities I was to permit a utility to revise the fuel clause for buyouts without a full review of the utility's overall rates. As the Commission repeatedly has recognized, fuel adjustment clauses are exceptions to the general notice and review requirements of section 205 of the FPA.[22] Clearly, fuel clause treatment has no benefit if it triggers a full rate case. While Kentucky Utilities I and related orders do not establish specific data requirements for a utility requesting waiver of the fuel clause regulations, they do describe the guidelines the Commission will use in reviewing such a request.

Wisconsin has addressed each of the criteria for a buyout proposal in sufficient detail such that the proposal is not patently deficient. Further, our review indicates that Wisconsin's proposal generally comports with the guidelines we first enunciated in Kentucky Utilities I. Accordingly, we shall deny Algoma's requests to reject Wisconsin's filing.

However, our preliminary review indicates that Wisconsin's proposed amendment to permit its buyout costs has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Algoma has raised several issues in this respect which warrant an evidentiary hearing. These issues include the reasonableness of Wisconsin's proposed recovery methodology and the degree of specificity in the description of the procedures that Wisconsin will adopt for the monthly fuel clause calculations and savings verification. Accordingly, we shall accept Wisconsin's amendment for filing, set the amendment for hearing,[23] and suspend the amendment as ordered below.

In West Texas Utilities Company,[24] we explained that where our preliminary examination indicates that proposed rates may be unjust and unreasonable, but may not be substantially excessive, as defined in *West Texas*, we would generally impose a nominal suspension. Although we recognize that there are questions that must be resolved in the hearing which we shall order in this docket, Wisconsin's filing, as noted above, generally comports with the criteria outlined in Kentucky Utilities I. Therefore, we will impose only a nominal suspension.

Waiver of Notice

On March 29, 1991, Wisconsin entered into the buyout agreement with Nerco and, on May 23, 1991, Wisconsin entered into the buyout agreement with Soo Line Railroad. On December 31, 1991, Wisconsin filed its original proposal to recover costs associated with these buyouts through its fuel adjustment clause, requesting an effective date of January 1, 1992. On January 24, 1992, Wisconsin filed a revised buyout recovery plan resulting from its renegotiation of its buyout agreement with Nerco which, Wisconsin maintains, results in additional savings to customers. Wisconsin maintains that the Commission should grant waiver of the 60-day prior notice requirement so that the portion of its original submittal that was not amended by the January 24, 1992 filing can become effective January 1, 1992.

Wisconsin argues that, in Kentucky Utilities II, the Commission held that the public's receipt of advance notice of a proposed buyout justifies waiver of the 60-day prior notice requirement, and that under these circumstances the Commission will permit a fuel clause recovery plan to take effect as of the tender date.[25] Wisconsin states that its December 31, 1991 submittal gave such notice. Wisconsin also states that, in Kentucky Utilities II, the Commission found that the effective date should also provide the best match between the receipt of the buyout benefits and the payment of the buyout costs.[26] Wisconsin maintains that a January 1, 1992 effective date would provide the best match between costs and benefits.

Although in Kentucky Utilities II we granted, as an effective date, the date the submittal was filed, we did so because the specific facts of the case persuaded us that there had been adequate notice of the company's proposal.[27] In particular, in Kentucky Utilities II, Kentucky Utilities originally sought timely fuel clause treatment for buyout costs in an earlier proposal. In addressing that earlier proposal, the Commission established, for the first time, specific criteria for buyout cost recovery that Kentucky Utilities could not have then addressed. Accordingly, the Commission granted waiver back to the date of Kentucky Utilities' filing because adequate notice had been provided. Since that time, however, the Commission has consistently granted only a limited waiver of the notice requirements to permit an effective date as of the date of filing, and has denied waivers for earlier pre-filing periods.[28]

While no party specifically opposed waiver of the 60-day prior notice requirement in our previous cases, many did request rejection of the filing utility's entire proposal. The Commission granted waiver of the 60-day prior notice requirement in these cases, however, because it was concerned that buyout payments might begin less than 60 days after the buyout negotiations ended. In such circumstances, waiver of the 60-day prior notice requirement provides a better matching of costs to benefits. Moreover, if we were to insist on a 60-day notice in all circumstances, such a policy could encourage utilities to negotiate a delay in any buyout implementation and, thus, a delay in any fuel savings that result from the buyout.

In the instant case, Wisconsin was aware more than 60 days prior to the

[19] *Id.* at 62,292.

[20] *Id.*

[21] *Id.* at 62,293. See also Cities and Villages of Bangor versus FERC, 922 F.2d 861, 863–64 (D.C. Cir. 1991) (explaining the Commission's treatment of buyout costs in fuel clauses and its application of the Kentucky Utilities "ongoing benefits test").

[22] *See, e.g.*, Gulf Power Company, 55 FERC ¶ 61,352 at 62,042 (1991), appeal pending, Gulf Power Co. v. FERC, D.C. Cir. No. 91–1354.

[23] The hearing which we will institute in this proceeding is not necessarily limited to the issues discussed above (and to the issue of the prudence of Wisconsin's entry into and subsequent buyout of the Soo Line Railroad and Nerco contracts, discussed *infra* at page 13). As we recently explained in Cincinnati Gas and Electric Company, 59 FERC ¶ 61,072, slip op. at 4–5 (1992), "[w]hen the Commission sets for hearing the justness and reasonableness of proposed rates, it necessarily sets for hearing all issues that are relevant to [the presiding judge's] assessment of justness and reasonableness." Of course, the presiding judge does not have the discretion to consider issues (such as the prudence of Wisconsin's entire fuel procurement program, discussed *infra* at page 13) that the Commission explicitly has refused to set for hearing.

[24] 18 FERC ¶ 61,189 (1982).

[25] *See* 49 FERC at 61,029.

[26] *Id.*

[27] *See* 49 FERC at 61,029.

[28] *See, e.g.*, Northern States Power Company, 58 FERC ¶ 61,119, *reh'g denied*, 59 FERC ¶ 61,033 (1992); Gulf Power Company, 55 FERC ¶ 61,030 at 61,083, *reh'g denied*, 55 FERC ¶ 61,352 (1991), appeal pending, Gulf Power Co. v. FERC, D.C. Cir. No. 91–1354; Illinois Power Company, 51 FERC ¶ 61,209 at 61,587, *reh'g denied*, 52 FERC ¶ 61,162 (1990).

proposed January 1, 1992 effective date that buyout payments would commence January 1, 1992. We do not look favorably upon Wisconsin's unexplained delay in filing and the resulting urgency of its request for waiver of notice. Nevertheless, we shall grant Wisconsin's requested waiver of the 60-day prior notice requirement because Wisconsin has relied on our consistent precedent of granting waiver to permit an effective date as of the filing date.[29] In future fuel clause proceedings involving Wisconsin or any other utility, however, we will only grant waiver of the 60-day prior notice requirement if the utility demonstrates that there was insufficient time to provide 60-day's notice because the buyout negotiations were completed shortly before the date of the buyout.

Confidential Treatment of Portions of Wisconsin's Submittal

Wisconsin has requested, pursuant to section 388.112, confidential treatment of various aspects of its submittal, including coal and transportation contracts and replacement coal prices. Wisconsin states that it will make the confidential information available to customers when they agree not to disclose such information to third parties. Algoma objects to Wisconsin's request for confidentiality of various portions of its submittal. Algoma states that section 388.112 places the burden on Wisconsin to show that confidential treatment is necessary. Algoma contends that Wisconsin has made no such showing with respect to this matter.

We note that confidentiality issues frequently arise during litigation, and that the presiding administrative law judge routinely makes case-specific findings as to what information should be covered by a protective order. We therefore direct the presiding judge to determine what documents, if any, should be protected in this proceeding.

Other Issues

Algoma requests that any hearing ordered in this docket should include the issue of Wisconsin's imprudence with respect to its overall fuel procurement program rather than only with respect to the Soo Line Railroad and Nerco contracts. We order that the prudence of Wisconsin's entry into and its subsequent buyout of the Soo Line Railroad and Nerco contracts, for which Wisconsin requests fuel clause recovery herein, be set for investigation.[30] To the extent prior settlements resolve Wisconsin's prudence or refund issues related to the Nerco and Soo Line contracts, the presiding judge can limit those issues accordingly. With respect to the prudence of Wisconsin's entire fuel procurement program, we deny Algoma's request without prejudice to it filing a separate complaint.[31]

Algoma also requests that the Commission treat the buyout costs at issue here like abandoned plant costs and require shareholders to incur part of the costs associated with the buyout. The Commission, in Delmarva Power & Light Company *(Delmarva)*,[32] determined that buyout costs are distinguishable from abandonment costs because abandoned plants are facilities that were never used and useful. In contrast, the Commission noted, buyout costs reduce costs that would otherwise be paid by customers as a part of their fuel bill. We stated that while, as a matter of policy, we require shareholders and ratepayers to share abandoned plant costs, there is no reason that shareholders should share the costs of buyouts which immediately and directly benefit ratepayers. Accordingly, consistent with *Delmarva*, we deny Algoma's request to treat the buyout costs as abandoned plant costs.

The Commission orders:

(A) Algoma's request for rejection is hereby denied.

(B) Wisconsin's proposal to recover buyout costs is hereby accepted for filing and suspended for a nominal period to become effective January 1, 1992, subject to refund.

(C) Wisconsin's request for waiver of the 60-day prior notice requirement is hereby granted.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, chapter I), a public hearing shall be held concerning the justness and reasonableness of Wisconsin Public Service Corporation's proposed rates, as discussed in the body of this order.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days from the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(F) Wisconsin is hereby informed of the rate schedule designations shown on the attachment.

(G) The Secretary shall promptly publish a copy of this order in the **Federal Register.**

By the Commission.

Lois D. Cashell,

Secretary.

Attachment

WISCONSIN PUBLIC SERVICE CORPORATION, Docket No. EL92-12-000, RATE SCHEDULE DESIGNATIONS

Designations	Description
(1) Fourth revised sheet No. 11 under FERC Electric Tariff, original volume No. 2 (supersedes third revised sheet No., 11).	FAC amendment reflecting buyout costs of fuel supply contracts.
(2) Original sheet Nos. 11.1 through 11.3 under FERC Electric Tariff, original volume No. 2.	
(3) Second revised sheet No. 14 under FERC Electric Tariff, first revised volume No. 1 (supersedes first revised sheet No. 14).	
(4) Original Sheet Nos. 14.1 through 14.3 under FERC Electric Tariff, first revised volume No. 1.	
(5) First revised sheet No. 15 under FERC Electric Tariff, original volume No. 3 (supersedes original sheet No. 15).	
(6) Original sheet Nos. 15.1 through 15.3 under FERC Electric Tariff, original volume No. 3.	

[FR Doc. 92-13551 Filed 6-9-92; 8:45]

BILLING CODE 6717-01-M

[29] *See* cases cited *id.*

[30] We note that Algoma has filed, in Docket No. EL92-24-000, a complaint requesting that the Commission investigate the prudence of Wisconsin's entry into and the subsequent buyout of the Soo Line Railroad and Nerco contracts. Since the identical issue has been set for investigation in this docket, Algoma should consider withdrawing its complaint or explaining why the complaint is not moot considering our findings and order in this docket. For example, we see no relief that could be granted in Docket No. EL92-24-000 which could not be granted in this proceeding.

[31] *See Kentucky Utilities II*, 49 FERC at 61,029.

[32] 49 FERC ¶ 61,016 (1989).

[Docket Nos. TA92-1-49-000 and TM92-6-49-000]

Williston Basin Interstate Pipeline Company; Purchased Gas Cost Adjustment Filing

June 3, 1992.

Take notice that on June 1, 1992, Williston Basin Interstate Pipeline Company (Williston Basin), 200 North Third Street, Suite 300, Bismarck, North Dakota 58501, tendered for filing its Annual Purchased Gas Cost Adjustment Filing (PGA) pursuant to 18 CFR 154.301, *et seq.* of the Commission's Regulations and sections 21, 30 and 35 of its FERC Gas Tariff (First Revised Volume No. 1 and Original Volume Nos. 1-A and 1-B, respectively).

The proposed effective date of the tariff sheets is August 1, 1992.

Williston Basin states that 2nd Rev 43rd Revised Sheet No. 10 (First Revised Volume No. 1) reflects a negative 32.273 cents per dkt Current Gas Cost Adjustment applicable to Rate Schedules G-1, SGS-1 and E-1 and a negative 6.372 cents per dkt Surcharge Adjustment applicable to rate Schedules G-1 and SGS-1. These changes result in an overall 42.345 cents per dkt decrease in the Cumulative Adjustment applicable to Rate Schedules G-1 and SGS-1, as compared to that contained in the Company's April 15, 1992 PGA filing in Docket No. TQ92-3-49-001, which became effective May 1, 1992.

Williston Basin also submitted for filing 2nd Rev 36th Revised Sheet No. 11, 2nd Rev 41st Revised Sheet No. 12 and 1st Rev 22nd Revised Sheet No. 97A (Original Volume No. 1-A), 2nd Rev 31st Revised Sheet Nos. 10 and 11 (Original Volume No. 1-B), 2nd Rev 43rd Revised Sheet No. 10 and 2nd Rev 37th Revised Sheet No. 11B (Original Volume No. 2) which reflect revisions to the fuel reimbursement charge, percentage and surcharge components of the Company's relevant gathering, transportation and storage rates as compared to that contained in the Company's April 15, 1992 filing in Docket No. TQ92-3-49-001 which was effective May 1, 1992.

Consistent with the Company's filing of two sets of tariff sheets (Primary and Alternate) in its Annual Take-or-Pay Reconciliation Filing submitted May 29, 1992 in Docket No. TM92-5-49-000, to be effective July 1, 1992, the instant filing also contains both Primary and Alternate tariff sheets. Williston Basin requests that the Commission accept the Alternate Tariff sheets only in the event that the Commission makes the Alternate tariff sheets contained in Docket No. RP92-163-000 effective prior to August 1, 1992.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before June 22, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding must file a motion to intervene. Copies of the filing are proceeding must file a motion to intervene. copies of the filing are on file with the commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-13567 Filed 6-9-92; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 92-28-NG]

Signal Fuels Trading Corp.; Order Granting Blanket Authorization To Import and Export Natural Gas From and To Canada and Mexico

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of an order granting blanet authorization to import and export natural gas from and to Canada and Mexico.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Signal Fuels Trading Corporation blanket authorization to import up to 20 Bcf and to export up to 20 Bcf of natural gas from and to Canada and Mexico over a two-year term beginning on the date of the first import or export.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, June 3, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-13641 Filed 6-9-92; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 92-46-NG]

Texas-Ohio Gas, Inc.; Application for Blanket Authorization To Import and Export Natural Gas, Including Liquefied Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy of the Department of Energy (DOE) gives notice of receipt on April 3, 1992, as revised on April 21, 1992, of an application filed by Texas-Ohio Gas, Inc. (TOG) requesting blanket authorization to import up to 30 Bcf and export up to 30 Bcf of natural gas, including liquefied natural gas (LNG), from and to Canada, Mexico, and other countries over a two-year term beginning on the date of first import or export. The proposed imports and exports would take place at any point on the United States' international border where existing facilities are located. TOG would provide DOE with quarterly reports detailing any import or export transaction.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time, July 10, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, FE-50, 1000 Independence Avenue SW., Washington, DC 20585

FOR FURTHER INFORMATION CONTACT:

Yvonne Gabbay, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-4587

Lot Cooke, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E-042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-0503.

SUPPLEMENTARY INFORMATION: TOG is a Texas corporation with its principal place of business in Houston, Texas. TOG is a privately held integrated energy company involved in gathering, transportation and marketing natural gas. TOG currently purchases natural gas from virtually all of the major supply regions in the United States and markets

that gas throughout the United States. TOG is primarily interested in the importation of Canadian gas to the United States and the exportation of United States gas to Canada and Mexico. While the bulk of its imports would come from Canada, TOG is also interested in securing authorization to import natural gas from countries other than Canada.

TOG requests authorization to import and export natural gas and LNG on its own behalf or acting as an agent on the behalf of others. TOG would use existing facilities for transportation of the imported and exported gas. TOG would import the natural gas and LNG for sales to pipelines, local distribution companies, and commercial and industrial end-users in the United States. TOG does not know the identity of the actual suppliers or transporters but anticipates that it would depend on various producers as sources of supply to be imported. TOG states that all shipments of imported gas would be based on the specific needs of its customers and would reflect market conditions existing at the time of negotiation of the purchase agreement. TOG further states that the purchase price of the imported gas would be determined by competitive factors in the gas market through arm's length negotiations between TOG and its suppliers. The domestically produced gas to be exported would come from fields in various producing states and would be incremental to the needs of any current domestic purchasers.

The decision on the application for import authority will be made consistent with DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the market served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). In reviewing natural gas export applications, DOE considers the domestic need for the gas to be exported and any other issues determined to be appropriate in a particular case, including whether the arrangement is consistent with DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties that may oppose the application should comment in their responses on these issues. TOG asserts that its proposal is in the public interest and that there is no current need for the domestic gas to be exported under the proposed agreement. Parties opposing TOG's application bear the burden of overcoming these assertions.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of TOG's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on June 3, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–13642 Filed 6–9–92; 8:45 am]

BILLING CODE 6450–01–M

Western Area Power Administration

Boulder Canyon Project; Proposed Power Rate

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of proposed Boulder Canyon Project Power Rate Adjustment.

SUMMARY: The Western Area Power Administration (Western) is proposing a rate adjustment (Proposed Rate) for the sale of energy and capacity for the Boulder Canyon Project (BCP). The BCP's Hoover Dam is the highest and third largest concrete dam in the United States. The dam, powerplant, and high-voltage switchyards are located in the Black Canyon of the Colorado River, on the Arizona-Nevada State line, approximately 36 miles from Las Vegas, Nevada. Lake Mead, the reservoir formed behind Hoover Dam, is capable of holding a 2-year average flow of the river. The reservoir provides for flood control, improvement of navigation, and river regulation. Waters impounded in Lake Mead are released, when needed, for use by downstream water users. Hoover Dam provides for the delivery of stored water for irrigation and other beneficial consumptive uses, as well as the generation of electrical energy.

The Power Repayment Spreadsheet Study (PRSS), based on the 5-year Cost Evaluation Period, and other analysis, indicates that the Proposed Rates for energy and capacity are necessary to provide sufficient revenue to pay all annual costs (including interest expense), plus repayment of required

investment within the allowable time period, plus repayment of the funds advanced (plus all suspended payments and interest). The PRSS is modeled after the Hoover Power Rates Methodology Review Standing Committee proposal, dated February 13, 1992. The rate impact is detailed in a rate brochure which will be distributed to all interested parties. The Proposed Rates for energy and capacity are expected to be placed in effect on October 1, 1992.

The Proposed Rates are based on a composite rate of 13.80 mills per kilowatthour (mills per kWh). This composite rate consists of an energy rate of 6.90 mills per kWh and a capacity rate of $1.22 per kilowatt-month (kW-mo).

The existing composite rate for BCP power is 10.21 mills per kWh, comprised of an energy rate of 5.11 mills per kWh and capacity rate of $1.05 per kW-mo.

The Deputy Secretary, U.S. Department of Energy (DOE), approved the existing rate schedule on an interim basis, effective on July 1, 1991, with such rate schedule to continue on an interim basis pending the Federal Energy Regulatory Commission (FERC) approval on a final basis or unitl replaced by a new rate schedule.

The following table compares the existing BCP power rates with the Proposed Rates:

Type of rate	Existing rates July 1, 1991	Proposed rates October 1, 1992	Percent change
Composite	10.21 mills per kWh.	13.80 mills per kWh.	35.16
Energy	5.11 mills per kWh.	6.90 mills per kWh.	35.03
Capacity	$1.05 per kW-mo.	$1.22 perk kW-mo.	16.19

In addition, Western will continue a charge of 2.5 mills for every kWh of energy generated from the BCP and sold to customers in California and Nevada, and 4.5 mills for every kWh of energy generated from the BCP and sold to customers in Arizona for augmentation of the Lower Colorado River Basin Development Fund.

Since the Proposed Rates constitute a major rate adjustment as defined by the current procedures for public participation in general rate adjustments, as cited below, both a public information forum and a public comment forum will be held. After review of public comments, Western will recommend the Proposed Rates for approval on an interim basis by the Assistant Secretary for Conservation and Renewable Energy (Assistant Secretary) of DOE.

The new ratesetting methodology will be submitted to the FERC for a 5-year approval without further FERC review for annual adjustments during that 5-year period.

The consultation and comment period will begin with publication of this notice in the **Federal Register** and will end on July 31, 1992. The decision to shorten the comment period to less than 90 days was made due to the fact that the new methodology was proposed, reviewed and agreed to by the Contractors, with concurrence by Western and the Bureau of Reclamation. Since all parties are in agreement as to the new methodology, we expect the focus will be on the data which is entered into the spreadsheet. Since BCP Contractors are represented on the Engineering and Operating Committee, they have had ample opportunity to review the majority of input data to the spreadsheet. Therefore, the shortened comment and review period should be adequate. A public information forum, at which Western will outline the methodology used in developing the Proposed Rates, will be held at 1:30 p.m. on July 7, 1992, at the Omni Adams Hotel, 111 North Central Avenue, Phoenix, Arizona. A public comment forum at which Western will receive oral and written comments will be held at 1:30 p.m. on July 16, 1992, at the Omni Adams Hotel, 111 North Central Avenue, Phoenix, Arizona.

Written comments should be received by Western by the end of the consultation and comment period to be assured consideration and should be sent to the address below.

ADDRESSES: Mr. Thomas A. Hine, Area Manager, Phoenix Area Office, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005, (602) 352–2453.

A copy of the written comments should also be sent to the address below: Ms. Marilyn Eiler, Assistant Area Manager for Power Marketing, Phoenix Area Office, Wester Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005, (602) 352–2650.

SUPPLEMENTARY INFORMATION: Power rates for the BCP are established pursuant to the Department of Energy Organization Act (42 U.S.C. 7101, *et seq.*), the Reclamation Act of 1902 (43 U.S.C. 372, *et seq.*), as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)), the Colorado River Basin Project Act of 1968 (43 U.S.C. 1501, *et seq.*), the Colorado River Storage Project Act of 1965 (43 U.S.C. 620, *et seq.*), the Boulder Canyon Project Act of 1928 (43 U.S.C. 617, *et seq.*), the Boulder Canyon Project Adjustment Act of 1940 (43 U.S.C. 618, *et seq.*), the Hoover Power Plant Act of 1984 (43 U.S.C. 619, *et seq.*), the General Regulations for Power Generation, Operation, Maintenance, and Replacement at the Boulder Canyon Project, Arizona/Nevada (43 CFR part 431) published in the **Federal Register** at 51 FR 23960 on July 1, 1986, and the General Regulations for the Charges for the Sale of Power from the Boulder Canyon Project, Final Rule (General Regulations) (10 CFR Part 904) published in the **Federal Register** at 51 FR 43124 on November 28, 1986.

By Amendment No. 2 to Delegation Order No. 0204–108, published August 23, 1991 (56 FR 41835), the Assistant Secretary of DOE delegated (1) the authority on a nonexclusive basis to develop long-term power and transmission rates to the Administrator of Western; (2) the authority to confirm, approve, and place such rates in effect on an interim basis to the Assistant Secretary of DOE; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to the FERC.

The procedures for public participation in rate adjustments for power and transmission serviced marketed by Western, which are found at 10 CFR part 903, were published in the **Federal Register** at 50 FR 37835 on September 18, 1985.

Availability of Information

All brochures, studies, comments, letters, memorandums, and other documents made or kept by Western for the purpose of developing the Proposed Rates are and will be made available for inspection and copying at the Phoenix Area Office, located at 615 South 43rd Avenue, Phoenix, Arizona.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et. seq.*), each agency, when required by 5 U.S.C. 553 to publish a proposed rule, is further required to prepare and make available for public comment an initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities. In this instance, the initiation of the BCP Proposed Rate adjustments are related to nonregulatory services provided by Western at a particular rate. Under 5 U.S.C. 601(2), rules of particular applicability relating to rates or services are not considered rules within the meaning of the Act. Since the BCP power rate is of limited applicability, no flexibility analysis is required.

Determination Under Executive Order 12291

DOE has determined that this is not a major rule within the meaning of the criteria of section 1(b) of Executive Order 12291 (46 FR 13193), published February 19, 1981. In addition, Western has an exemption from sections 3, 4, and 7 of said Executive Order 12291 and, therefore, will not prepare a regulatory impact statement.

Paperwork Reduction Act of 1980

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520) requires that certain information collection requirements be approved by the Office of Management and Budget (OMB) before information is demanded of the public. OMB has issued a final rule on the Paperwork Burdens on the Public (48 FR 13666), dated March 31, 1983. Ample opportunity was provided in the proposed rule for the interested public to participate with the Power Marketing Administration in the development of rates. Nevertheless, participation is at their sole discretion. There is no requirement that members of the public participating in the development of the BCP power rate supply information about themselves to the Government. As a result, the BCP power rate is exempt from the Paperwork Reduction Act.

Environmental Evaluation

In compliance with the National Environmental Policy Act of 1969, Council of Environmental Quality Regulations (40 CFR Parts 1500 through 1508), and DOE guidelines published at 57 FR 15122 on April 24, 1992, Western conducts an environmental evaluation of the BCP power rate adjustment and develops the appropriate level of environmental documentation prior to the implementation of any rate adjustment.

Issued at Golden, Colorado, May 22, 1992.

William H. Clagett,

Administrator.

[FR Doc. 92–13643 Filed 6–9–92; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–100111; FRL–4066–7]

Science Applications International Corporation; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is a notice to persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Science Applications International Corporation (SAIC) has been awarded a contract to perform work for the EPA Office of Water, and will be provided access to certain information submitted to EPA under FIFRA and the FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This information will be transferred to SAIC consistent with the requirements of 40 CFR 2.307(h)(3) and 40 CFR 2.308(i)(2), to enable SAIC to fulfill the obligations of the contract.

DATES: SAIC will be given access to this information no sooner than June 15, 1992.

FOR FURTHER INFORMATION CONTACT: By mail: Clare Grubbs, Program Management and Support Division (H7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 212, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–7460.

SUPPLEMENTARY INFORMATION: Under Contract No. 68–C0–0035, SAIC will provide technical support to EPA's Office of Water in the development of effluent guidelines under the Clean Water Act for the pesticides formulators, packagers, or repackagers (PFP) industry. SAIC will also provide statistical analysis support and review of environmental fate, effects, and groundwater data in support of the assessment of risk from pesticide in the environment for registration, reregistration, or special review.

The Office of Water and the Office of Pesticide Programs have jointly determined that the contract herein described involves work that is being conducted in connection with FIFRA, in that pesticide chemicals will be the subject of certain analyses to be made under this contract. These analyses may be used in subsequent regulatory decisions under FIFRA and the Clean Water Act.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of the FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(3), the contract with SAIC, prohibits use of the information for any purpose not specified in the contract; prohibits disclosure of the information in any form to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the FIFRA Information Security Manual. In addition, SAIC is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to this contractor until the above requirements have been fully satisfied. Records of information provided to this contractor will be maintained by the Project Officer for this contract in the EPA Office of Water. All information supplied to by EPA for use in connection with this contract will be returned to EPA when SAIC has completed its work.

Dated: May 26, 1992.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 92–13494 Filed 6–9–92; 8:45 am]

BILLING CODE 6560–50–F

[OPP–100108; FRL–4063–1]

Dynamac Corporation; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is a notice to persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Dynamac Corporation has been awarded a contract to perform work for the EPA Office of Pesticide Programs (OPP), and will be provided access to certain information submitted to EPA under FIFRA and the FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This information will be transferred to Dynamac Corporation consistent with the requirements of 40 CFR 2.307(h)(3) and 2.308(h)(2), and will enable Dynamac Corporation to fulfill the obligations of the contract.

DATES: Dynamac Corporation will be given access to this information no sooner than June 15, 1992.

FOR FURTHER INFORMATION CONTACT: By mail: Clare Grubbs, Program

Management and Support Division (H7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 212, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–7460.

SUPPLEMENTARY INFORMATION: Under Contract Number 68–D2–0053, Dynamac Corporation will assist the Health Effects Division to review registration data summaries to identify data gaps and adverse effects, and will assist in the comprehensive examination of product chemistry and residue chemistry data. These evaluations may be used in subsequent regulatory decisions under FIFRA. This contract involves no subcontractor.

OPP has determined that access by Dynamac Corporation to information on all pesticide chemicals is necessary for the performance of this contract. Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of the FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(2), the contract with Dynamac Corporation prohibits use of the information for any purpose not specified in the contract; prohibits disclosure of the information in any form to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the FIFRA Information Security Manual. In addition, Dynamac Corporation is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to this contractor until the above requirements have been fully satisfied. Records of information provided to this contractor will be maintained by the Project Officer for this contract in OPP. All information supplied to Dynamac Corporation by EPA for use in connection with this contract will be returned to EPA when Dynamac Corporation has completed its work.

Dated: May 21, 1992.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 92–13493 Filed 6–9–92; 8:45 am]

BILLING CODE 6560–50–F

[OPP–100112; FRL–4066–9]

Computer Sciences Corporation; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is a notice to persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Computer Sciences Corporation (CSC) has been awarded a contract to perform work for the EPA Office of Compliance Monitoring (OCM), and will be provided access to certain information submitted to EPA under FIFRA and FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This information will be transferred to CSC consistent with the requirements of 40 CFR 2.307(h)(3) and 2.308(h)(2), and will enable CSC to fulfill the obligations of the contract.

DATES: CSC will be given access to this information no sooner than June 15, 1992.

FOR FURTHER INFORMATION CONTACT: By mail: Clare Grubbs, Program Management and Support Division (H7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 212, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–7460.

SUPPLEMENTARY INFORMATION: Under Contract Number 68–W0–0043, Work Order Number 316, CSC will provide OCM with data entry, data management, data analysis/verification, and data base user support for the Section Seven Tracking System (SSTS), the FIFRA/TSCA Tracking System (FTTS), and the National Compliance Data Base (NCDB). This contract involves no subcontractor.

OCM and the Office of Pesticide Programs have determined that access by CSC to information on all pesticide chemicals is necessary for the performance of this contract. Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of the FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(2), the contract with CSC prohibits use of the information for any purpose not specified in the contract; prohibits disclosure of the information in any form to a third party without approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the FIFRA Information Security Manual. In addition, CSC is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to this contractor until the above requirements have been fully satisfied. Records of information provided to this contractor will be maintained by the Delivery Order Project Officer for this contract in OCM. All information supplied to CSC by EPA for use in connection with this contract will be returned to EPA when CSC has completed its work.

Dated: May 26, 1992.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 92–13492 Filed 6–9–92; 8:45 am]

BILLING CODE 6560–50–F

[PF–564; FRL–4066–2]

Pesticide Tolerance Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions (PP) and food and feed additive petitions (FAP) proposing the establishment of regulations for residues of certain pesticide chemicals in or on certain agricultural commodities. It also announces two amended petitions and a corrected petition.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1128, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential

may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1128 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, contact the PM named in each petition at the following office location/ telephone number:

Product Manager	Office location/ telephone number	Address
George LaRocca (PM-13).	Rm. 202, CM #2, 703-557-2400.	1921 Jefferson Davis Hwy., Arlington, VA.
Phil Hutton (PM-18).	Rm. 213, CM #2, 703-305-7690.	Do.
Dennis Edwards (PM-19).	Rm. 207, CM #2, 703-305-5386.	Do.
Susan Lewis (PM-21).	Rm. 227, CM #2, 703-305-6900.	Do.
Cynthia Giles-Parker (PM-22).	Rm. 229, CM #2, 703-305-5540.	Do.
Joanne Miller (PM-23).	Rm. 237, CM #2, 703-305-7830.	Do.
Robert Taylor (PM-25).	Rm. 241, CM #2, 703-305-6800.	Do.
Hoyt Jamerson (PM-43).	Rm. 716C, CM #2, 703-305-5310.	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions and food/ feed additive petitions as follows proposing the establishment and/or amendment of regulations for regulations for residues of certain pesticide chemicals in or on various agricultural commodities.

Initial Filings

1. *PP 2F4072.* Ciba-Geigy Corp., P.O. Box 18300, Greensboro, NC 27419-8300, proposes to amend 40 CFR 180.408 by establishing a regulation to permit combined residues of the fungicide metalaxyl (N-(2,6-dimethylphenyl)-N-(methoxyacetyl)aniline methyl ester) and its metabolites containing the 2,6-dimethylaniline moiety, and N-(2-hydroxymethyl-6-methylphenyl)-N-methoxyacetyl) aniline methyl ester, each expressed as metalaxyl equivalents in or on brassica (cole) leafy vegetable crop grouping at 5.0 parts per million (ppm). (PM-21)

2. *PP 2F4075.* BASF Corp., Agricultural Chemicals, P.O. Box 13528, Research Triangle Park, NC 27709-3528, proposes to amend 40 CFR part 180 by establishing a regulation to permit residues of the herbicide 2-[1-(ethoxyimino)butyl]-5-[2-ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one and its metabolites containing the 2-cyclohexen-1-one moiety (calculated as the herbicide) in or on rice grain at 0.1 ppm and rice straw at 0.5 ppm. (PM-25)

3. *PP 2F4076.* EcoScience Corp., 85 North Whitney St., P.O. Box 300, Amherst, MA 01004, proposes to amend 40 CFR part 180 by establishing a regulation for permanent exemption from the requirement of a tolerance for *Metarhizium anisopliae* in or on all raw agricultural commodities. (PM-18)

4. *PP 2F4077.* FMC Corp., Agricultural Chemicals Group, 1735 Market St., Philadelphia, PA 19103, proposes to amend 40 CFR part 180 by establishing a regulation to permit residues of 2-(2-chlorophenyl) ethyl-4,4-dimethyl-3-isoxazolidinone in or on cottonseed at 0.05 ppm. (PM-25)

5. *PP 2F4079.* FMC Corp., Agricultural Chemicals Group, 1735 Market St., Philadelphia, PA 19103, proposes to amend 40 CFR part 180 by establishing a regulation to permit residues of (±)*cis,trans*-3-(2,2-dichloro-ethenyl)-2,2-dimethylcyclopropane carboxylate cypermethrin and its metabolites dichlorovinyl acid (DCVA) and *m*-phenoxybenzoic acid (MPB Acid) in or on sorghum grain at 3.0 ppm, sorghum fodder/forage at 12.0 ppm, sorghum, green and chopped/silage at 6.0 ppm, and sorghum hay at 31.0 ppm. (PM-13)

6. *PP 2F4081.* Monsanto Co., Suite 1100, 700 14th St., NW., Washington, DC 20005, proposes to amend 40 CFR 180.364 by establishing a regulation to permit residues of glyphosate (N-(phosphonomethyl) glycine) and its metabolite aminomethylphosphonic acid resulting from the application of the isopropylamine salt of glyphosate and/ or the monoammonium salt of glyphosate in or on almond hulls at 25 ppm and tree nut crops at 1.0 ppm. (PM-25)

7. *PP 2F4082.* McLaughlin Gormley King Co., 8810 Tenth Ave. North, Minneapolis, MN 55427-4372, proposes to amend 40 CFR part 180 by establishing a regulation to permit residues of insecticide (S)-cyano(3-phenoxyphenyl)methyl-(S)-4-chloro-alpha-(1-methylethyl)benzeneacetate in or on cocoa at 1.0 ppm. (PM-13)

8. *PP 2F4086.* Ciba-Geigy Corp., P.O. Box 18300, Greensboro, NC 27419-8300, proposes to amend 40 CFR part 180 by establishing a regulation to permit residues of the fungicide propiconazole (1-[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl]methyl]-1H-1,2,4-triazole)), and its metabolites determined as 2,4-dichlorobenzoic acid and expressed as parent compound in or on oat grain at 0.1 ppm, and oat straw at 1.0 ppm. (PM-21)

9. *PP 2F4089.* Espro, Inc., 1015 15th St., NW., Suite 500, Washington, DC 20005, proposes to amend 40 CFR part 180, by establishing a regulation exempting acal from the requirement of a tolerance. (PM-18)

10. *PP 2F4090.* Espro, Inc., 1015 15th St., NW., Suite 500, Washington, DC 20005, proposes to amend 40 CFR part 180 by establishing a regulation to exempt cydx from requirement of a tolerance. (PM-18)

11. *PP 2F4091.* E. I. du Pont de Nemours Co., Inc., Walker's Mill, Barley Mill Plaza, P.O. Box 80038, Wilmington, DE 19880-0038, proposes to amend 40 CFR part 180 by establishing a regulation to permit residues of the insecticide methomyl (S-methyl N-[methylcarbamoyl] thioacetimidate in or on sugarbeet tops at 1.0 ppm. (PM-19)

12. *PP 2F4097.* Jellinek, Schwartz, Connolly, Freshman, Inc., 1015 15th St., NW., Washington, DC 20005, proposes to amend 40 CFR part 180 by establishing a regulation to permit the residues of pentachloronitrobenzene (PCNB) in or on potatoes at 2.0 ppm. (PM-21)

13. *PP 2F4098.* Versar, Inc., RiskFocus Division, 6850 Versar Center, Springfield, VA 22151, proposes to amend 40 CFR part 180, by establishing a regulation to permit residues of microbial pesticide Dr. Biosedge (Puccinia canaliculata) in or on food crops. (PM-21)

14. *PP 2F4100.* ICI Americas, Inc., Agricultural Products, Concord Pike & New Murphy Rd., Wilmington, DE 19897, proposes to amend 40 CFR part 180 by establishing a regulation to permit residues of lambdacyhalothrin [1-alpha[S],3-alpha(Z)]-(±)-cyano-(3-phenoxyphenyl)methyl 3-(2-chloro-3,3,3-trifluoro-1-propenyl)-2,2-dimethylcyclopropanecarboxylate] in or on both dry bulb onions and garlic at 0.1 ppm. (PM-13)

15. *PP 2F4103.* FMC Corp., Agricultural Chemicals Group, 1735 Market St., Philadelphia, PA 19103, proposes to amend 40 CFR part 180 by establishing a regulation to permit residues of (±)-a-cyano-(3-phenoxyphenyl)l (±)*cis,trans*-3-(2,2-dichloro-ethenyl)-2,2-dimethylcyclopropane carboxylate (cypermethrin) and its metabolites dichlorovinyl acid (DCVA) and *m*-phenoxybenzoic acid (MPB Acid) in or on tomato fruit at 0.5 ppm. (PM-13)

16. *PP 2F4104.* DowElanco, 9002 Purdue Rd., Indianapolis, IN 46268-1189, proposes to amend 40 CFR 180.417 by increasing the existing tolerance in milk from 0.01 ppm to 0.05 ppm, and establishing a tolerance for residues of triclopyr (3,5,6-trichloro-2-pyridinyloxyacetic acid) in or on apples at 0.05 ppm. (PM-25)

17. *PP 2F4105.* Ciba-Geigy Corp., Agricultural Division, P.O. Box 18300, Greensboro, NC 27419-8300, proposes to amend 40 CFR 180.408 by establishing a regulation to permit residues of the fungicide metalaxyl [N-(2,6-dimethylphenyl)-N-(methoxyacetyl)analine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety and N-(2-hydroxymethyl-6-methylphenyl)-N-(methoxyacetyl)anilina methyl ester, each expressed as metalaxyl equivalents in or on nongrass animal feed forage at 6.0 ppm, non-grass animal feed hay at 20.0 ppm. (PM-21)

18. *PP 2F4106.* DowElanco, 9002 Purdue Rd., Indianapolis, IN 46268-1189, proposes to amend 40 CFR part 180 by establishing a regulation to permit combined residues of the soil microbiocide nitrapyrin [2-chloro-6-(trichloromethyl)pyridine and its metabolite, 6-trichloropicolinic acid in or on wheat forage at 2 ppm, wheat grain at 0.5 ppm, and wheat straw at 6 ppm. (PM-23)

19. *PP 2F4107.* Ciba-Geigy Corp., P.O. Box 18300, Greensboro, NC 27419-8300, proposes to amend 40 CFR part 180 by establishing a regulation to permit residues of difenoconazole 1-(2-[4-chlorophenoxy)-2-chlorophenyl]-4-methyl-1,3-dioxolan-2-yl-methyl)-1H-1,2,4-triazole in or on wheat forage at 0.1 ppm, wheat straw at 0.1 ppm, barley forage at 0.1 ppm, and barley straw at 0.1 ppm. (PM-21)

20. *PP 2F4109.* ICI Agricultural Products, Wilmington, DE 19897, proposes to amend 40 CFR 180.378 by establishing a regulation to permit residues of [1alpha(S),3alpha(Z)-(±cyano-(3-phenoxyphenyl)methyl-3-(2-chloro-3,3,3-trifluoro-1-propenyl)-2,2-dimethylcyclopropanecarboxylate in or on corn fodder at 3.0 ppm, corn grain field, pop and seed at 0.05 ppm, corn grain dust at 0.1 ppm, and corn silage at 1.0 ppm. (PM-13)

21. *PP 2F4110.* Nor-Am Chemical Co., 3509 Silverside Rd., P.O. Box 7495, Wilmington, DE 19803, proposes to amend 40 CFR 180.287 by establishing a regulation to permit the residues of the insecticide amitraz [N'-[2,4-dimethylphenyl]-N-[[(2,4-dimethylphenyl)imino] methyl]]-N-methylmethanimidamide) and its metabolites N-(2,4-dimethylphenyl)-N-methyl formamide and N-(2,4-dimethylphenyl)-N-methylmethanimide (both calculated as the parent) in or on liver at 0.4 ppm, fat at 0.2 ppm, and meat-by-products at 0.6 ppm of cattle, goats, hogs, horses, and sheep. (PM-19)

22. *PP 2F4114.* ICI Americas, Inc., Agricultural Products, Wilmington, DE 19897, proposes to amend 40 CFR 180.438 by establishing a regulation to permit residues of lambda-cyhalothrin [1 alpha(S), 3 alpha(Z)]-(+)-cyano(3-phenoxyphenyl)methyl-3-(2-chloro-3,3,3-trifluoro-1-propenyl)-2,2-dimethylcyclopropanecarboxylate in or on peanut hulls at 0.05 ppm and peanut nutmeats at 0.05 ppm. (PM-13)

23. *FAP 2H5618.* Nor-Am Chemical Co., P.O. Box 7495, 3509 Silverside Rd., Wilmington, DE 19803, proposes to amend 40 CFR part 185 by establishing a food additive regulation to permit residues of insecticide miticide amitraz (N'-[2,4-dimethylphenyl]-N-[[2,4-dimethylphenyl)imino]methyl]-N-methyl-methanimidamide) and its metabolites N-(2,4-dimethylphenyl)-N-methyl formamide and N-(2,4-dimethylphenyl)-N-methylmethanimidamide (both calculated as parent compound) in or on imported dried hops at 75 ppm. (PM-19)

24. *FAP 2H5619.* Sandoz Crop Protection Corp., 1300 East Touhy Ave., Des Plains, IL 60018, proposes to amend 40 CFR part 186 by establishing a feed additive for fluvalinate import tolerance in or on apple pomace, dry, at 2.0 ppm and hops, dried, at 15.0 ppm. (PM-13)

25. *FAP 2H5621.* BASF Corp., Agricultural Products Group, P.O. Box 13528, Research Triangle Park, NC 27709-3528, proposes to amend 40 CFR part 186 by establishing a feed additive regulation to permit residues of (ethoxyimino)butyl-5-(2-ethylthio)prop in or on canola rape soapstock at 160.0 ppm and canola meal at 40.0 ppm. (PM-25)

26. *FAP 2H5625.* E.I. du Pont de Nemours & Co., Wilmington, DE 19880-0038, proposes to amend 40 CFR part 186 by establishing a feed additive petition for residues of the fungicide benomyl, methyl 1-butylcarbamoyl-2-benzimidazolecarbamate, in or on raisin waste at 50.0 ppm. (PM-21)

27. *FAP 2H5626.* EcoScience Corp., 85 North Whitney St., P.O. Box 300, Amherst, MA 01004, proposes to amend 40 CFR parts 185 and 186 by exempting from the requirement of a tolerance in or on processed food and animal feed *Metarhizium anisopliae* used for roach control. (PM-18)

28. *FAP 2H5627.* FMC Corp., Agricultural Chemical Group, 1735 Market St., Philadelphia, PA 10103, proposes to amend 40 CFR part 185 by establishing a food additive petition for cypermethrin (±)-a-cyano-(3-phenoxyphenyl)methyl (±)*cis,trans*-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropane carboxylate (cypermethrin) and its metabolites dichlorovinyl acid (DCVA) and *m*-phenoxybenzoic acid (MPB Acid) in or on sorghum flour at 1.5 ppm. (PM-13)

29. *FAP 2H5628.* Miles Inc., 8400 Hawthorn Rd., P.O. Box 4913, Kansas City, MO 64120-0013, proposes to amend 40 CFR part 185 by establishing a food additive petition for tebuconazole (*a*-[2-(4-chlorophenyl) ethyl]-*a*-(1,1-dimethylethyl)-1H-1,2,4-triazole-1-ethanol) in or on peanut oil at 0.5 ppm and peanut soapstock at 0.5 ppm. (PM-21)

30. *FAP 2H5629.* Monsanto Co., Suite 1100, 700 14th St., NW., Washington, DC 20005, proposes to amend 40 CFR part 185 by establishing a feed additive petition to permit residues of the herbicide alachlor (2-chloro-2',6'-diethyl-N-(methoxymethyl) acetamide) and its metabolites (calculated as alachlor) in or on soybean grain dust at 2.0 ppm and soybean grain hulls at 1.0 ppm. (PM-25)

31. *FAP 2H5630.* BASF Corp., Agricultural Chemicals, P.O. Box 13528, Research Triangle Park, NC 27709-3528, proposes to amend 40 CFR part 186 by establishing a feed additive petition to permit combined residues of Poast herbicide, 2-[1-ethoxyimino)butyl]-5-[2-(ethylthio) propyl]-3-hydroxy-2-cyclohexen-1-one and its metabolites containing the 2-cyclohexen-1-one, in or on rice hulls at 0.2 ppm and rice bran at 0.2 ppm. (PM-25)

32. *FAP 2H5631.* FMC Corp., Agricultural Chemicals Group, 1735 Market St., Philadelphia, PA 19103, proposes to amend 40 CFR part 185 by establishing a food additive petition to permit the residues of cypermethrin (±)-a-cyano-(3-phenoxyphenyl)methyl(±)*cis,trans*-3-(2,2-dichloro-ethenyl)-2,2-dimethylcyclopropane carboxlylate (cypermethrin) and its metabolites dichlorovinyl acid (DCVA) and *m*-phenoxybenzoic acid (MPB Acid) in or on tomato juice at 0.1 ppm, tomato puree at 0.1 ppm, tomato catsup at 0.2 ppm, tomato wet pomace at 1.0 ppm, and tomato dry pomace at 11.0 ppm. (PM-25)

33. *FAP 2H5633.* IR-4, Cook College, P.O. Box 231, Rutgers, State University of New Jersey, New Brunswick, NJ 08903-0231, proposes to amend 40 CFR part 185 by establishing a regulation to permit the residues of insecticide cyfluthrin (cyano(4-fluoro-3-phenoxyphenyl)methyl 3-(2,2-dichloroethenyl)-2,2-

dimethylcyclopropanecarboxylate) in or on dried hops at 4.0 ppm. (PM-43)

34. *FAP 2H5634.* DowElanco, 9002 Purdue Rd., Indianapolis, IN 46268-1189, proposes to amend 40 CFR part 185 by establishing a food additive petition to permit combined residues of the soil microbiocide nitrapyrin [2-chloro-6-(trichloromethyl)pyridine] and its metabolite, 6-chloropicolinic acid, in or on wheat bran at 2 ppm and wheat shorts at 1 ppm. (PM-23)

35. *FAP 2H5635.* Monsanto Co., Suite 1100, 700 14th St., NW., Washington, DC 20005, proposes to amend 40 CFR 185.3500 by establishing a food additive petition to permit combined residues of glyphosate (N-phosphonomethyl)glycine) and its metabolites aminomethylphosphonic acid resulting from the application of the isopropylamine salt of glyphosate and/or the monoammonium salt of the glyphosate in or on wheat milling fractions (excluding flour) at 12 ppm. (PM-25)

36. *FAP 2H5636.* Miles, Inc., 8400 Hawthorn Rd., P.O. Box 4913, Kansas City, MO 64120-0013, proposes to amend 40 CFR part 186 by establishing a feed additive regulation to permit the residues of Bayleton, 1-(4-chlorophenoxy)-3,3-dimethyl-1-(1H-2,4-triazol-1-yl)-2-butanone, in or on pineapple bran at 5.0 ppm. (PM-22)

37. *FAP 2H5638.* American Cyanamid Co., P.O. Box 0400, Princeton, NJ 08543-0400, proposes to amend 40 CFR part 186 by establishing a feed additive regulation to permit residues of the herbicide difenzoquat, (1,2-dimethyl-3,5-diphenyl-1H-pyrazolium ion), derived from application of the methyl sulfate salt and the cation, in or on barley milled fractions (except flour), and wheat milled fractions (except flour) at 1.0 ppm. (PM-23)

38. *FAP 2H5639.* Valent U.S.A. Corp., 1333 N. California Blvd., Suite 600, P.O. Box 8025, Walnut Creek, CA 94594-8025, proposes to amend 40 CFR part 185 by establishing a food additive regulation to permit residues of fenpropathrin, alpha-cyano-3-phenoxybenzyl 2,2,3,3-tetramethylcyclopropanecarboxylate, in or on cotton seed oil at 3 ppm, raisins at 15 ppm, orange oil at 160 ppm, cottonseed soapstock at 2 ppm, raisin waste at 45 ppm, and grape pomace, wet and dry at 35 ppm, orange pulp, dry at 8 ppm. (PM-13)

39. *FAP 2H5640.* Ciba-Geigy Corp., Agricultural Division, P.O. Box 18300, Greensboro, NC 27419-8300, proposes to amend 40 CFR parts 185 and 186 by establishing a food/feed additive petition to permit combined residues of cyromazine (N-cyclopropyl-1,3,5-triazine-2,4,6-triamine) and its principal metabolite melamine (1,3,5-triazine-2,4,6-triamine) calculated as cyromazine in or on processed tomato products at 1.2 ppm and dry tomato pomace at 1.6 ppm. (PM-18)

Amended Petitions

40. *FAP 2H5623.* BASF Corp., Agricultural Chemicals, P.O. Box 13528, Research Triangle Park, NC 27709-3528, proposes to amend 40 CFR part 185 by establishing a regulation to permit combined residues of vinclozolin, 3-(3,5-dichloro-phenyl)-5-ethenyl-5-methyl-2,4 oxazolidinedione, and its metabolites containing the 3,5-dichloroaniline moiety in or on potato dry peel at 3.0 ppm. Notice of this petition originally published in the **Federal Register** of March 11, 1992 (57 FR 8658), and proposed establishing tolerances for potato dry peel at 3.0 ppm and potato granules, flakes, and chips at 0.2 ppm. (PM-21)

41. *FAP 2H5624.* Nor-Am Chemical Co., 3509 Silverside Rd., P.O. Box 7495, Wilmington, DE 19803, proposes to amend 40 CFR part 185 by establishing a food additive tolerance for phenmedipham [3-methoxycarbonylaminophenyl-3'-methylcarbanilate] in or on sugar beet pulp, dehydrated at 0.5 ppm, and sugar beet molasses at 0.2 ppm. Notice of this petition originally published in the **Federal Register** of March 11, 1992 (57 FR 8659), and proposed amending 40 CFR 186.278 to establish a feed additive tolerance for phenmedipham in or on sugar beet pulp, dehydrated at 0.5 ppm, and sugar beet molasses at 0.2 ppm. (PM-25)

Corrected Petition

42. *PP 2F4039.* In the **Federal Register** of March 11, 1992 (57 FR 8658), EPA issued incorrectly an initial filing of PP 2F4039. It is corrected to read as follows: PP 2F4039. Scentry, Inc., 610 Central Ave., Billings, MT 59102, proposes to amend 40 CFR part 180 by establishing a regulation to exempt from the requirement of a tolerance the insect pheromone containing the active ingredients [E/Z]-4-tridecen-1-yl acetates in or on all raw agricultural commodities. (PM-18)

Authority: 7 U.S.C. 136a.

Dated: May 19, 1992.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 92-13621 Filed 6-9-92; 8:45 am]

BILLING CODE 6560-50-F

EXPORT-IMPORT BANK OF THE UNITED STATES

[Public Notice 17]

Agency Forms Submitted for OMB Review

AGENCY: Export-Import Bank of the United States.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980, Eximbank has submitted a proposed collection of information to the Office of Management and Budget for review.

PURPOSE: The proposed form is to be used by commercial banks and other lenders in applying for guarantees on working capital loans advanced by the lenders to U.S. exporters.

SUMMARY: The following summarizes the information collection proposal submitted to OMB.

(1) *Type of request:* revised.

(2) *Number of forms submitted:* one.

(3) *Form Number:* EIB 84-1 (Rev.).

(4) *Title of information collection:* EIB 84-1 (Rev.), Application for Working Capital Loan Guarantee.

(5) *Frequency of use:* Upon application for guarantees on working capital loans advanced by the lenders to U.S. exporters.

(6) *Respondents:* Commercial banks and other lenders throughout the United States.

(7) *Estimated total number of annual responses:* 200.

(8) *Estimated total number of hours needed to fill out the form:* 400.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed application may be obtained from Helene H. Wall, Agency Clearance Officer, (202) 566-8111. Comments and questions should be directed to Lin Liu, Office of Management and Budget, Information and Regulatory Affairs, room 3235, New Executive Office Building, Washington, DC 20503, (202) 395-7340. All comments should be submitted within two weeks of this notice; if you intend to submit comments but are unable to meet this deadline, please advise by telephone that comments will be submitted late.

Dated: May 21, 1992.

Helene H. Wall,

Agency Clearance Officer.

[FR Doc. 92-13542 Filed 6-9-92; 8:45 am]

BILLING CODE 6690-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Meeting of the Communication Disorders Review Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Communication Disorders Review Committee on June 18–19, 1992. The Committee will meet at the Hyatt Regency-Bethesda, One Bethesda Metro Center, Bethesda, Maryland 20814. Notice of the meeting room will be posted in the hotel lobby.

The Committee meeting will be open to the public on June 18 from 8 a.m. until 8:30 a.m. to discuss administrative details relating to Committee business. Attendance by the public will be limited to space available.

The meeting of the Committee will be closed to the public on June 18 from 8:30 a.m. until recess and on June 19 from 8 a.m. until adjournment at approximately 2 p.m. in accordance with provision set forth in secs. 552b(c)(4) and 552b(c)(6), title 5 U.S.C. and sec. 10(d) of Public Law 92–463, for the review, discussion, and evaluation of individual grant applications. These deliberations could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Further information concerning the Committee meeting may be obtained from Dr. Marilyn Semmes, Scientific Review Administrator, National Institute on Deafness and Other Communication Disorders, Room 400B Executive Plaza South, Bethesda, Maryland 20892, 301–496–8683.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Other Communicative Disorders)

Dated: June 1, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–13657 Filed 6–9–92; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Aging; Meetings

Pursuant to Public Law 92–463, notice is hereby given of the Biological and Clinical Aging Review Subcommittee A meeting.

This meeting will be open to the public as indicated below to discuss administrative details and other issues relating to committee activities as indicated in the notice. Attendance by the public will be limited to space available.

This meeting will be closed to the public as indicated below in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Public Law 92–463, for the review, discussion, and evaluation of individual research grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. June C. McCann, Committee Management Officer, National Institute on Aging, Gateway Building, Room 2C218, National Institutes of Health, Bethesda, Maryland 20892 (301–496–9322), will provide summaries of the meeting and a roster of the committee members upon request.

Other information pertaining to the meeting can be obtained from the Executive Secretary indicated below:

Name of Committee: Biological and Clinical Aging Review Subcommittee A.

Executive Secretary: Dr. Daniel Eskinazi, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–9666.

Date of Meeting: June 12, 1992.

Place of Meeting: Holiday Inn, 8120 Wisconsin Ave., Bethesda, Maryland 20814.

Open: June 12—8:30 a.m. to 8:45 a.m.

Closed: June 12—8:45 a.m. to adjournment.

(Catalog of Federal Domestic Assistance Program No. 93.866, Aging Research, National Institutes of Health.)

Dated: May 28, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–13658 Filed 6–9–92; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

National Toxicology Program; Availability of Technical Report on Toxicology and Carcinogenesis Studies of C. I. Pigment Red 3

The HHS' National Toxicology Program (NTP) announces the availability of the NTP Technical Report on toxicology and carcinogenesis studies of C. I. Pigment Red 3, used for coloring paints, inks, plastics, rubber, and in textile painting.

Two-year toxicology and carcinogenesis studies were conducted by feeding groups of 60 rats of each sex diets containing 0, 6,000, 12,500 or 25,000 ppm C. I. Pigment Red 3. Groups of 60 mice of each sex were fed diets containing 0, 12,500, 25,000 or 50,000 ppm C. I. Pigment Red 3. The appropriate feed was supplied weekly and available ad libitum for 103 weeks.

Under the conditions of these 2-year feed studies, there was some evidence of carcinogenic activity* of C. I. Pigment Red 3 in male F344/N rats as exhibited by increased incidences of benign pheochromocytomas of the adrenal gland. The marginal increase in the incidences of squamous cell papillomas of the skin and Zymbal's gland carcinomas may have been related to C. I. Pigment Red 3 administration. There was some evidence of carcinogenic activity of C. I. Pigment Red 3 in female F344/N rats as indicated by the increased incidence of hepatocellular adenomas. There was some evidence of carcinogenic activity of C. I. Pigment Red 3 in male B6C3F1 mice as exhibited by the increased incidences of tubule adenomas of the renal cortex and follicular cell adenomas of the thyroid gland. There was no evidence of carcinogenic activity of C. I. Pigment Red 3 in female B6C3F1 mice that received 12,500, 25,000 or 50,000 ppm.

The incidences of mononuclear cell leukemia and preputial gland tumors in male rats and mononuclear cell leukemia, mammary gland fibroadenoma, and clitoral gland tumors in female rats were lower in the exposed groups. The incidences of liver foci were markedly increased in exposed male and female rats. The severity of chronic nephropathy was increased in male rats and to a lesser extent in female rats given C. I. Pigment Red 3. An increase in the severity of nephropathy was observed in male and female mice; cytomegaly (karyomegaly) of renal tubule epithelium was observed in male mice. Thyroid follicular cell hyperplasia occurred with an increased incidence in male and female mice receiving C. I. Pigment Red 3.

The Study Scientist for this bioassay is Dr. Kamal Abdo. Questions or comments about the contents of this Technical Report should be addressed to Dr. Abdo at P.O. Box 12233, Research Triangle Park, NC 27709 or telephone (919) 541–7619.

Copies of Toxicology and Carcinogenesis Studies of C. I. Pigment Red 3 (CAS No. 2425–85–6) in F344/N Rats and B6C3F1 Mice (Feed Studies)

(TR 407) are available from NTP Central Data Management, NIEHS, P.O. Box 12233, MD AO–01, Research Triangle Park, NC 27709; telephone (919) 541–3419 or (919) 541–0941.

Dated: June 4, 1992.

Kenneth Olden,

Director, National Toxicology Program.

The NTP uses five categories of evidence of carcinogenic activity to summarize the evidence observed in each animal study: Two categories for positive results ("clear evidence" and "some evidence"), one category for uncertain findings ("equivocal evidence"), one category for no observable effect ("no evidence"), and one category for studies that cannot be evaluated because of major flaws ("inadequate study").

[FR Doc. 92–13572 Filed 6–9–92; 8:45 am]

BILLING CODE 4140–01–M

National Institutes of Health

National Cancer Institute; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Cancer Advisory Board Subcommittee on Acquired Immune Deficiency Syndrome (AIDS), to be held on June 24, 1992. The meeting will take place at the National Institutes of Health, Building 31C, Conference Room 6, 9000 Rockville Pike, Bethesda, Maryland 20892.

The entire meeting will be open to the public from 2 p.m. to 4 p.m. Attendance by the public will be limited to space available. Discussions will address issues related to scientific performance and conduct of the laboratory of Tumor Cell Biology in the discovery of HIV–1. Questions may be submitted in advance of the meeting by writing to the Acting Executive Secretary by June 17. These, as well as written questions submitted from the floor, may be accepted at the discretion of the Subcommittee Chairman.

Ms. Carole Frank, Committee Management Specialist, National Cancer Institute, 9000 Rockville Pike, Building 31, room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will provide summaries of the meeting and a roster of the Subcommittee members upon request.

Mrs. Barbara S. Bynum, Acting Executive Secretary, AIDS Subcommittee, National Cancer Advisory Board, Building 31, room 10A03, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5147), will furnish substantive program information.

Dated: June 3, 1992.

Susan K. Feldman,

Committee Management Office, NIH.

[FR Doc. 92–13571 Filed 6–9–92; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–967–4230–15; AA–8447–B, AA–8447–A2]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), will be issued to the Eyak Corporation for 2,337.30 acres. The lands involved are in the vicinity of Eyak, Alaska.

Copper River Meridian, Alaska

T. 15 S., R. 1 W.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Cordova Times. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until July 10, 1992 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, Subpart E, shall be deemed to have waived their rights.

Terry R. Hassett,

Chief, Branch of KCS Adjudication.

[FR Doc. 92–13574 Filed 6–9–92; 8:45 am]

BILLING CODE 4310–JA–M

[UT–040–02–4212–14; UTU–67778]

Beaver River Resource Area, Cedar City District; Notice of Plan Amendment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice is to advise the public that an environmental assessment and proposed planning amendment for the Cedar, Beaver, Garfield, Antimony Resource Management Plan (CBGA RMP), Beaver River Resource Area, Cedar City District, has been completed. The proposed decision provides for the sale of the 10-acre tract described below to Frank and Freida H. Harris of Beaver, Utah.

Salt Lake Meridian

T. 29 S., R. 7 W., sec. 5, SE¼SE¼SE¼.

DATES: The protest period for this plan amendment and decision will commence with the date of publication of this notice. Protests must be submitted on or before July 10, 1992.

ADDRESSES: Protests should be addressed to the Director of the Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Arthur L. Tait, Beaver River Resource Area Office, 365 South Main, Cedar City, Utah 84720, telephone (801) 586–2458.

SUPPLEMENTARY INFORMATION: This plan amendment is necessary since the existing plan does not identify this land for disposal. However, the environmental assessment identifies no significant impacts. Resource values, public values and objectives involved, and the public interest would be served by providing these lands to Frank and Fredia H. Harris.

This action is announced pursuant to section 203 of the Federal Land Policy and Management Act of 1976 and 43 CFR part 1610. The proposed planning amendment is subject to protest from any adversely affected party who participated in the planning process. Protests must be made in accordance with the provisions of 43 CFR 1610.5–2.

James M. Parker,

State Director.

[FR Doc. 92–13606 Filed 6–9–92; 8:45 am]

BILLING CODE 4310–DQ–M

[AZ-010-92-4410-08]

Resource Management Plans; Shivwits and Vermillion Resource Areas, AZ

AGENCY: Bureau of Land Management, Arizona Strip District, Interior.

ACTION: Administrative determination.

SUMMARY: The Arizona Strip District has determined that the Resource Management Plan recently completed for the District will be divided into two plans for implementation purposes. One plan will be for the Shivwits Resource Area and the other will be for the Vermillion Resource Area.

SUPPLEMENTARY INFORMATION: Through this action, each Resource Area will be able to implement their own decisions, set their own priorities and on their own time schedule rather than on the District's. The Environmental Impact Statement developed in conjunction with the Resource Management Plan adequately addresses this plan separation. It has been determined that no further consideration is required regarding National Environmental Policy Act compliance.

G. William Lamb,

Arizona Strip District Manager.

[FR Doc. 92-13590 Filed 6-9-92; 8:45 am]

BILLING CODE 4410-06-M

[ID-942-02-4730-12]

Idaho: Filing of Plats of Survey; Idaho

The plat, in two sheets, of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, Effective 9 a.m., June 2, 1992.

The plat, in two sheets, representing the dependent resurvey of a portion of the east boundary, T. 5 S., R. 5 W., portions of the north boundary, subdivisional lines, and boundaries of certain mineral surveys, the subdivision of certain sections, and a metes-and-bounds survey in sections, 5, 6, 7, 8, and 9, T. 5 S., R. 4 W., Boise Meridian, Idaho, Group No. 817, was accepted, June 2, 1992.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

All inquiries concerning the survey of the above described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Dated: June 2, 1992.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 92-13583 Filed 6-9-92; 8:45 am]

BILLING CODE 4310-66-M

Fish and Wildlife Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service Clearance Officer and the Office of Management and Budget, Paperwork Reduction Project (1018-0009), Washington, DC 20503, telephone 202-395-7340.

Title: Woodcock Wing Collection Envelope.

OMB Approval Number: 1018-0009.

Abstract: The woodcock wing collection provides data on annual recruitment to woodcock populations, distribution and chronology of the woodcock harvest, and hunter success. Survey cooperators provide data on their harvests and hunting activities, and from each bird taken, they submit one wing for certain biological determinations. Such data is used by the Service to develop annual hunting regulations for woodcock, i.e., to determine to what extent they may be hunted. The information is also essential to programs designed to conserve the migratory bird resource.

Service Form Number: 3-156a.

Frequency: On Occasion.

Description of Respondents: Individuals and households, Federal, State and Provincial personnel.

Estimated Completion Time: .067 hours per response.

Annual Responses: 10,000 (2,000 respondents average 5 responses per year).

Annual Burden Hours: 670.

Service Clearance Officer: James E. Pinkerton, 703-358-1943, Mail Stop—224 Arlington Square, U.S. Fish and Wildlife Service, Washington, DC 20240.

Dated: May 13, 1992.

William F. Hartwig,

Assistant Director—Refuges and Wildlife.

[FR Doc. 92-13541 Filed 6-9-92; 8:45 am]

BILLING CODE 4310-55-M

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service Clearance Officer and the Office of Management and Budget, Paperwork Reduction Project (1018-0017), Washington, DC 20503, telephone 202-395-7340.

Title: Application for Federal Bird Marking and Salvage Permit

OMB Approval Number: 1018-0017

Abstract: This form is used by persons who wish to apply for a Federal Bird Marking and Salvage Permit. The permit is required for persons who band, usually for research or management reasons. The data collected is used to determine the applicant's qualifications. It is essential that an applicant be well qualified by abilities and also have a valid research or management need for such permit.

Service Form Number: 3-481

Frequency: On Occasion

Description of Respondents: Individuals and households, Federal, State and Provincial personnel

Estimated Completion Time: 30 minutes (.5 hours)

Annual Responses: 450

Annual Burden Hours: 225

Service Clearance Officer: James E. Pinkerton, 703-358-1943, Mail Stop—224 Arlington Square, U.S. Fish and Wildlife Service, Washington, DC 20240.

Dated: May 19, 1992.

Thomas J. Dwyer,

Acting Assistant Director—Refuges and Wildlife.

[FR Doc. 92-13530 Filed 6-9-92; 8:45 am]

BILLING CODE 4310-55-M

Information Collection Submitted to the Office of Managment and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been sumitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service Clearance Officer and the Office of Management and Budget, Paperwork Reduction Project (1018–0006), Washington, DC 20503, telephone 202–395–7340.

Title: Banding Schedule.

OMB Approval Number: 1018–0006.

Abstract: The use of band recovery information is one of the most important tools used in the preparation of annual United States and Canadian hunting and shooting regulations. Form 3–860 is used by licensed bird banders to record specific information on the use of each Service band once it has been placed on a bird and the bird is released in the wild again. The information is also used by the Service to make management recommendations and decisions for threatened and endangered species, and to further the understanding, management, and utilization of the North American migratory bird resource by Federal, State and private conservation oraganizations and the Canadian Wildlife Service.

Service Form Number: 3–860.

Frequency: On Occasion.

Description of Respondents: Individuals and households, Federal, State and Provincial personnel.

Estimated Completion Time: .2 hours per response.

Annual Responses: 2,500 respondents average 13.2 responses per year.

Annual Burden Hours: 6,600.

Service Clearance Officer: James E. Pinkerton, 703–358–1943; Mail Stop—224 Arlington Square, U.S. Fish and Wildlife Service, Washington, DC 20240.

Dated: May 8, 1992.

Thomas J. Dwyer,

Acting Assistant Director, Refuges and Wildlife.

[FR Doc. 92–13540 Filed 6–9–92; 8:45 am]

BILLING CODE 4310–55–M

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service Clearance Officer and the Office of Management and Budget, Paperwork Reduction Project (1018–0013), Washington, DC 20503, telephone 202–395–7340.

Title: Request for Banding Data.

OMB Approval Number: 1018–0013.

Abstract: The use of band recovery information is one of the most important tools used in the preparation of annual United States and Canadian hunting and shooting regulations. Form 3–860a is used by licensed bird banders to record specific information on each Service band once it has been placed on a bird and the bird is released in the wild again. When the Service receives a banding report on a specific bird band number and there is no banding information in the files, the bander is requested to provide us with such information. Banders are required to submit such information at least annually. Sometimes band recoveries are received before the required reporting date for band information. The data collected is initially used to process a report to the bird band finder. The curiosity about the banding information is a significant incentive for the public to voluntarily report the important band recovery information. The data accumulated and permanently stored in the banding program are used extensively in research on and in management of migratory birds.

Service Form Number: 3–860a.

Frequency: On Occasion.

Description of Respondents: Individuals and households, Federal, State and Provincial personnel.

Estimated Completion Time: 2 minutes.

Annual Responses: 4,000 per year.

Annual Burden Hours: 133.

Service Clearance Officer: James E. Pinkerton, 703–358–1943 Mail Stop—224 Arlington Square, U.S. Fish and Wildlife Service, Washington, DC 20240.

Dated: May 8, 1992.

Thomas J. Dwyer,

Acting Assistant Director - Refuges and Wildlife.

[FR Doc. 92–13529 Filed 6–9–92; 8:45 am]

BILLING CODE 4310–55–M

Availability of Draft Recovery Plan for the Hawaiian Gardenia (Gardenia brighamii)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of a draft recovery plan for the Hawaiian gardenia (*Gardenia brighamii*). This species is known only from the Hawaiian Islands and is currently limited to only six wild populations, made up of a total of less than twenty individuals, on the islands of Lanai, Molokai and Oahu.

DATES: Comments on the draft recovery plan must be received on or before August 10, 1992 to receive consideration by the Service.

ADDRESSES: Copies of the draft recovery plan are available for inspection, by appointment, during normal business hours at the following locations: U.S. Fish and Wildlife Service, Pacific Islands Office, P.O. Box 50167, Honolulu, Hawaii 96850 (building address: 300 Ala Moana Boulevard, Honolulu, Hawaii 96813) (Phone: 808/541–2749 or FTS/552–2749) and U.S. Fish and Wildlife Service, Fish and Wildlife Enhancement, 911 NE. 11th Avenue, Portland, Oregon 97232 (phone: 503/231–6131 or FTS/429–6131). Requests for copies of the draft recovery plan and written comments and materials regarding the plan should be addressed to Robert P. Smith, Field Supervisor of the Pacific Islands Office at the Honolulu address given abve.

FOR FURTHER INFORMATION CONTACT: Karen Rosa, Fish and Wildlife Biologist, at the Honolulu adddress given above.

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystem is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States, its Territories and Commonwealths. Recovery plans describe actions considered necessary for conservation of the species, criteria for recognizing

the recovery levels for downlisting or delisting them, and initial estimates of times and costs to implement the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that a public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. Substantive technical comments will result in changes to the plan. Substantive comments regarding recovery plan implementation may not necessarily result in changes to the recovery plan, but will be forwarded to appropriate Federal or other entities so that they can take these comments into account during the course of implementing recovery actions. Individualized responses to comments will not be provided.

The species being considered in this recovery plan is the Hawaiian gardenia (*Gardenia brighamii*). This species was once widespread in the dry land forests of all eight of the main Hawaiian Islands. The destruction of dry land habitats throughout the Hawaiian Islands, which began 1,500 years ago with the coming of the Polynesians to Hawaii and increased greatly with the arrival of the Europeans a little over 200 years ago, has led to the elimination of the Hawaiian gardenia on all of the islands, except Lanai, Molokai and Oahu. Alien plan competitors and browsing and trampling by introduced herbivores are now the major threats to the species' survival. Other threats are fire and pathogens.

The Hawaiian gardenia is currently represented by only six wild populations, made up of less than twenty individuals. The areas of emphasis for recovery actions are the population sites on Lanai, Molokai and Oahau. In addition, the recovery plan emphasizes reintroduction of the species on the islands of Hawaii and Maui.

Recovery efforts will focus on protection of all extant individuals from alien plant species, herbivores, fire and pathogens, propagation of genetically suitable plants to augment the existing populations, and reestablishment of the species throughout much of its former range.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of this plan.

Authority: The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: May 22, 1992.

William E. Martin,

Acting Regional Director, U.S. Fish and Wildlife Service, Region 1.

[FR Doc. 89-13596 Filed 6-9-89; 8:45 am]

BILLING CODE 4310-55-M

Availability of a Draft Revised Recovery Plan for the Selkirk Mountains Woodland Caribou for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of a draft revised recovery plan for the Selkirk Mountains woodland caribou (*Rangifer tarandus caribou*). This caribou population is on public lands managed mostly by the U.S. Forest Service in the southern Selkirk Mountains of northern Idaho and northeast Washington. The Service solicits review and comment from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received on or before August 10, 1992 to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft revised recovery plan may obtain a copy by contacting the Assistant Regional Director, Fish and Wildlife Enhancement, U.S. Fish and Wildlife Service, Eastside Federal Complex, 911 N.E. 11th Ave., Portland, Oregon 97232-4181 or 503/231-6131. Written comments and materials regarding the plan should be addressed to the above address. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Charles H. Lobdell, Field Supervisor, U.S. Fish and Wildlife Service, 4696 Overland Road, Room 576, Boise, Idaho 83705 or call 208/334-1931.

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the Service's endangered species program. To held guide the recovery effort, the Service prepares recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires the development of recovery plans for listed species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during the public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

The Selkirk Mountains woodland caribou lives in old growth forest types above 4,000 feet elevation in the Selkirk Mountains of north Idaho and northeast Washington. The species faces extinction due to human caused mortality and habitat deterioration. The woodland caribou, which weighs 200-400 pounds and isn't quite four feet at the shoulder, is the only member of the deer family able to travel when snow reaches the depth it does in the Selkirks. Large hooves and long dewclaws aid stability where footing is treacherous. These natural snow-shoes keep caribou from sinking into all but the loosest snow.

To survive, caribou evolved behaviors like staying in dense cedar-hemlock stands during early winter, where the forest canopy slows the accumulation of deep snow and leaves some green browse available. Later in the season, as snow sets up and can support their weight, caribou leave the lower-elevation forests for open ridges above. There they walk on top of the snow to reach arboreal lichen ("old man's beard") hanging from tree branches high above the forest floor. They have, over time, come to depend on this mossy-looking plant for food to get through the winter.

The revised recovery plan resulted from a year-long effort by scientists from State and Federal agencies and the University of Idaho. It calls for reducing human caused mortality by preventing poaching and misidentification by

hunters; and maintaining habitat by reducing fire and insect impacts to forest habitat and through better management of timber harvesting. Once finished, the plan will guide the actions of all Federal and State agencies whose actions affect the conservation of this caribou. The ultimate goal is to restore the species to a secure status in its native ecosystem.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of the plan.

Authority: The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: May 21, 1992.

Marvin L. Plenert,

Regional Director, U.S. Fish and Wildlife Service, Region 1.

[FR Doc. 92-13597 Filed 6-9-92; 8:45 am]

BILLING CODE 4310-55-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332-227]

Annual Report on the Impact of the Caribbean Basin Economic Recovery Act on U.S. Industries and Consumers

AGENCY: United States International Trade Commission.

ACTION: Notice of deadline to submit comments in connection with 1992 annual report.

EFFECTIVE DATE: May 22, 1992.

FOR FURTHER INFORMATION CONTACT: James E. Stamps (202-205-3227), Trade Reports Division, Office of Economics, U.S. International Trade Commission, Washington, DC 20436.

BACKGROUND: Section 215(a) of the Caribbean Basin Economic Recovery Act (CBERA) (19 U.S.C. 2704(a)) requires that the Commission submit annual reports to the Congress and the President on the impact of the act. The Commission instituted the present investigation under section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)) on March 21, 1986, for the purpose of gathering and presenting such information through the termination of duty-free treatment under the CBERA. Notice of institution of the investigation and the schedule for such reports was published in the **Federal Register** of May 14, 1986 (51 FR 17678). The seventh report, covering calendar year 1991, is to be submitted by September 30, 1992.

In the original notice of investigation, it was announced that, as provided in section 215(b) of the CBERA, the Commission in such reports is required to assess the actual effect of the act on the United States economy generally as well as on appropriate domestic industries and to assess the probable future effect which the act will have on the United States economy generally and on such domestic industries.

WRITTEN SUBMISSIONS: The Commission does not plan to hold a public hearing in connection with the seventh annual report. However, interested persons are invited to submit written statements concerning the matters to be addressed in the report. Commercial or financial information that a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons in the Office of the Secretary to the Commission. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted at the earliest practical date and should be received no later than June 29, 1992. All submissions should be addressed to the Secretary to the Commission, U.S. International Trade Commission, 500 E St., SW., Washington, DC 20436.

Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1809.

Issued: June 1, 1992.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 92-13640 Filed 6-9-92; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos 731-TA-532-537 (Final)]

Certain Circular, Welded, Non-Alloy Steel Pipes and Tubes From Brazil, the Republic of Korea, Mexico, Romania, Taiwan, and Venezuela

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject investigations.

EFFECTIVE DATE: June 4, 1992.

FOR FURTHER INFORMATION CONTACT: Douglas E. Corkran (202-205-3177), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on these matters by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

SUPPLEMENTARY INFORMATION: On April 24, 1992, the Commission instituted the subject investigations and established a schedule for their conduct (57 FR 21428, May 20, 1992). Subsequently, the Department of Commerce extended the date for its final determination in these investigations from July 6, 1992, to September 10, 1992 (57 FR 22208, May 27, 1992). The Commission, therefore, is revising its schedule in these investigations to conform with Commerce's new schedule.

The Commission's new schedule for these investigations is as follows: the prehearing staff report will be placed in the nonpublic record on August 27, 1992; requests to appear at the hearing must be filed with the Secretary to the Commission not later than September 4; the deadline for filing prehearing briefs is September 9; the prehearing conference will be held at the U.S. International Trade Commission Building on September 11; the hearing will be held at the U.S. International Trade Commission Building on September 15; and the deadline for filing posthearing briefs is September 23.

For further information concerning these investigations see the Commission's notice of institution cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: These investigations are being conducted under authority of the Tariff At of 1930, title VII. This notice is published pursuant § 207.20 of the Commission's rules.

Issued: June 4, 1992.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 92-13622 Filed 6-9-92; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-336]

Certain Single In-Line Memory Modules and Products Containing Same

Notice is hereby given that the prehearing conference in this matter will commence at 9 a.m. on July 7, 1992, in Courtroom C (room 217), U.S. International Trade Commission Building, 500 E St., SW., Washington, DC, and the hearing will commence immediately thereafter.

The Secretary shall publish this notice in the **Federal Register.**

Issued: June 3, 1992.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 92-13639 Filed 6-9-92; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-331]

Certain Microcomputer Memory Controllers, Components Thereof and Products Containing Same

Notice is hereby given that the prehearing conference in this matter will commence at 9 a.m. on July 20, 1992, in Courtroom C (room 217), U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC, and the hearing will commence immediately thereafter.

The Secretary shall publish this notice in the **Federal Register.**

Issued: June 3, 1992.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 92-13623 Filed 6-9-92; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-371 (Sub-No. 1X)]

Clearfield and Mahoning Railway Co.—Abandonment Exemption—Between C&M Junction and East Bickford in Clearfield County, PA

[Docket No. AB-369 (Sub-No. 1X)]

Buffalo & Pittsburgh Railroad, Inc.—Discontinuance Exemption—Between C&M Junction and East Bickford in Clearfield County, PA

Clearfield and Mahoning Railway Company (C&M), as owner, and Buffalo & Pittsburgh Railroad, Inc. (B&P), as lessee, have filed a notice of exemption under 49 CFR 1152 subpart F—Exempt Abandonments and Discontinuances for C&M to abandon and B&P to discontinue service over 17.4 miles of rail line between Milepost 0.0 at C&M Junction and Milepost 17.4 past East Bickford, near Curwensville on B&P's Clearfield Subdivision in Clearfield County, PA.

C&M and B&P have certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment and discontinuance shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on July 10, 1992 (unless stayed). Petitions to stay that do no involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by June 20, 1992.[3] Petitions for reconsideration or requests for public use conditions under 49 CFR 1152.28 must be filed by June 30, 1992, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to C&M's and B&P's representative: Charles D. Cramton, 700 Midtown Tower, Rochester, NY 14604.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio.*

C&M and B&P have filed an environmental report which addresses environment or energy impacts, if any, from this abandonment and discontinuance.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by June 15, 1992. Interested persons may obtain a copy of the EA from SEE by writing to it (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE as (202) 927-6248. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: June 2, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-13611 Filed 6-9-92; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 32066]

Consolidated Grain and Barge Co.—Continuance in Control—Garden Spot and Northern Corp.; Exemption

Consolidated Grain and Barge Co. (CGB) has filed a verified notice of exemption to continue to control of Garden Spot and Northern Corporation (Garden Spot), when Garden Spot purchase (a) approximately 43 miles of Indiana Rail Road Company (Rail Road) line running between Newton (MP B 161.5) and Browns, IL (MP B 204.3) and (b) more than 65 miles of incidental trackage rights over the line owned by Garden Spot & Ohio Limited Partnership (GS&O) between Browns and the connection with CSX Transportation at Evansville, IN (MP 283.9). CGB is a shipper on the line and formed Garden Spot to acquire the line and trackage rights.[1] The exemption became effective on May 18, 1992.

CGB controls MG Rail, Inc., an operator of 7.74 miles of leased rail line in Jeffersonville, IN. CGB also controls two motor carriers, River Bend Transport Company and River Terminals Transport, Inc., both with gerneral commodities authority.

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). An entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use statement as long as its retains jurisdiction to do so.

[1] Garden Spot has filed a notice of exemption in Finance Docket No. 32065, Garden Spot and Northern Corporation—Purchase Exemption—Indiana Rail Road Line Between Newton and Browns, IL.

Petitioner will place the motor carriers in a voting trust, while it seeks an exemption under section 10505 for common control of those motor carriers and Garden Spot.[2]

As a condition to use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in New York Dock RY.—Control—Brooklyn Eastern Dist., 360 I.C.C. 60 (1979).

Any comments must be filed with the Commission and served on: John D. Heffner, Gerst, Heffner, Carpenter & Podgorsky, 1700 K Street, NW., suite 1107, Washington, DC 20006.

This notice is filed under 49 CFR 1180.2(d)(2). If the notice contains false or misleading information, the exemption is void *ab initio* . Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petiton to revoke will not automatically stay the transaction.

Decided: June 3, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.

Secretary.

[FR Doc. 92-13608 Filed 6-9-92; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub 428X)]

CSX Transportation, Inc.—Abandonment Exemption—In Logan County, WV

Applicant has filed a notice of exemption under 49 CFR part 1152 subpart F—Exempt Abandonments to abandon its 3.27-mile line of railraod between milepost CLZ-3.50 near Yolyn and milepost CLZ-6.77 at Slagle, in Logan County, WV.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under Oregon Short Line R. Co.—Abondonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on July 10, 1992 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expression of intent to file offers of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by June 22, 1992,[3] Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by June 30, 1992, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Charles M. Rosenberger, CSX Transportation, Inc., 500 Water Street J150, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by June 15, 1992. Interested persons may obtain a copy of the EA from SEE by writing to it (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 927-6248. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: June 4, 1992.

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-13610 Filed 6-9-92; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 32065]

Garden Spot and Northern Corporation—Purchase Exemption—Indiana Rail Road Line Between Newton and Browns, IL

Garden Spot and Northern Corporation (Garden Spot), a non-carrier, has filed a verified notice of exemption to purchase (a) approximately 43 miles of Indiana Rail Road Company (Rail Road) line running between Newton (MP B 161.5) and Browns, IL (MP B 204.3), and (b) more than 65 miles of incidental trackage rights over the line owned by Garden Spot & Ohio Limited Partnership (GS&O) between Browns and the connection with CSX Transportation at Evansville, IN (MP 283.9). Garden Spot is a newly-formed subsidiary of Consolidated Grain and Barge Co. (CGB), a shipper on the line.[1] The exemption became effective on May 18, 1992.

In Finance Docket No. 31593, Garden Spot & Northern Limited Partnership—Pur. and Oper.—Indiana Rail Road Co. Line Between Newton and Browns, IL (not printed), served March 28, 1991, the Commission exempted, under 49 U.S.C. 10505, a transaction in which GS&O would purchase the 43-mile line and its general partner, Indiana Hi-Rail Corporation (Hi-Rail), would operate the line. GS&O did not consummate the purchase, but Hi-Rail began operating the line, while it restructured the transaction to provide for the purchase by Garden Spot. Hi-Rail also operates the trackage rights over the GS&O line between Browns and Evansville. Upon consummation of the purchase by Garden Spot, Hi-Rail will continue to operate the line and the trackage rights.[2]

---

[1] This class exemption notice applies only to the common control of Garden Spot and MG Rail, Inc., and thus does not exempt the control by petitioner of Garden Spot and the two motor carriers.

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See Exemption of Out-of-Service Rail Lines, 5 I.C.C. 2d 377 (1989). Any entity seeking a stay based on environmental concerns should file its request as soon as possible to permit Commission review and action before the exemption's effective date.

[2] See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C. 2d 164 (1987).

[3] The Commission will accept late-filed trail use statements so long as it retains jurisdiction.

[1] CGB controls MG Rail, Inc. (MG), a rail operator, and two motor carriers. Therefore, it has filed a notice of exemption in Finance Docket No. 32066, *Consolidated Grain and Barge Co.—Continuance in Control Exemption—Garden Spot and Northern Corporation* for the continuance in control of Garden Spot and MG, when the purchase is consummated. Petitioner will place the motor carriers in a voting trust, while it seeks an exemption under 49 U.S.C. 10505 for common control of those motor carriers and Garden Spot.

[2] *See* Finance Docket No. 30726, *Michigan Interstate Ry. Co.—Exempt. from 49 U.S.C. 10901* (not printed), served September 25, 1985.

By acquiring the trackage rights, Garden Spot will be able to continue to operate between Browns and the CSX connection if Hi-Rail should cease its operation.

Any comments must be filed with the Commission and served on: John D. Heffner, Gerst, Heffner, Carpenter & Podgorsky, 1700 K Street NW., suite 1107, Washington, DC 20006.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time.

The filing of a petition to revoke will not automatically stay the transaction.

Decided: June 3, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-13607 Filed 6-9-92; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-33 (Sub-No. 74X)]

Union Pacific Railroad Co.—Abandonment Exemption—in Buffalo County, NE

AGENCY: Interstate Commerce Commission..

ACTION: Notice of exemption.

SUMMARY: Pursuant to 49 U.S.C. 10505, the Commission exempts from the prior approval requirements of 49 U.S.C. 10903–10904 the abandonment by Union Pacific Railroad Company, of 5.77-miles of rail line in Buffalo County, NE, between milepost 3.75 near Kearney and the end of the line at milepost 9.52 near Riverdale, subject to salvage, public use, and standard labor protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on July 10, 1992. Formal expression of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2) [1] must be filed by June 22, 1992, petitions to stay must be filed by June 25, 1992, and petitions for reconsideration must be filed by July 6, 1992. Requests for public use conditions must be filed by June 30, 1992.

ADDRESSES: Send pleading referring to Docket No. AB-33 (Sub-No. 74X) to :

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423, and

(2) Petitioner's representative: Joseph D. Anthofer, 1416 Dodge Street #830, Omaha, NE 68179.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder (202) 927-5610 [TDD for hearing impaired: (202) 927-5721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289 4357/4359.

Decided: June 3, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Emmett.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-13609 Filed 6-9-92; 8:45 am]

BILLING CODE 7035-01-M

[1] See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C. 2d 164 (1987).

DEPARTMENT OF JUSTICE

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) How often the form must be filled out or the information is collected;

(4) Who will be asked or required to respond, as well as a brief abstract;

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(6) An estimate of the total public burden (in hours) associated with the collection; and,

(7) An indication as to whether Section 3504(h) of Public Law 96-511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Ms. Lin Liu on (202) 395-7340 and to the Department of Justice's Clearance Officer, Mr. Lewis Arnold, on (202) 514-4305. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Lewis Arnold, DOJ Clearance Officer, SPS/JMD/5031 CAB, Department of Justice, Washington, DC 20530.

Extension of the Expiration Date of a Currently Approved Collection Without any Change in the Substance or in the Method of Collection

(1) Application for Suspension of Deportation.

(2) Form I-256A. Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. Form I-256A is filed with the Immigration Court by aliens in deportation proceedings who seek to have their deportation suspended by the Attorney General and to acquire lawful permanent resident status.

(5) 2251 annual responses at 1 hour per response.

(6) 2251 annual burden hours.

(7) Not applicable under 3504(h).

(1) Alien's Change of Address Card.

(2) Form AR-11. Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. Section 265 Of the I & N Act requires all foreign nationals within the United States to notify the Service in writing of each change of address within ten days from the date of such change. This form (AR-11) provides a standardized format for compliance.

(5) 250,000 annual responses at .083 hours per response.

(6) 20,750 annual burden hours.

(7) Not applicable under 3504(h).

New Collections

(1) Prosecuting Gangs: A National Assessment.

(2) None. Office of Justice Programs.

(3) One time response.

(4) State or local governments. There is no central source of information on effective strategies used by local prosecutors to combat gangs and gang-related violence. A sample of county prosecutors will be surveyed to identify strategies, problems, and needs regarding gang prosecution.

(5) 244 annual responses at .42 hours per response.

(6) 102 annual burden hours.

(7) Not applicable under 3504(h).

(1) Less-Than-Lethal-Force Weapons: Policies and Practices of State and Local Law Enforcement and Correctional Agencies

(2) None. Office of Justice Programs.

(3) One time response.

(4) State or local governments. There is a need to document the kinds of less-than-lethal-force weapons that are currently being used by state and local law enforcement and correctional agencies, how often this type of weapon is being used, the circumstances of deployment, and the policies and procedures governing their use. A sample of state and local agencies will be surveyed.

(5) 740 annual responses at .93 hours per response.

(6) 691 annual burden hours.

(7) Not applicable under 3504(h).

Public comment on these items is encouraged.

Dated: June 4, 1992.

Lewis Arnold,

Department Clearance Officer, Department of Justice.

[FR Doc. 92-13548 Filed 6-9-92; 8:45 am]

BILLING CODE 4410-10-M

Lodging of Consent Decree Pursuant to Clean Water Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on May 26, 1992, a proposed Consent Decree in *United States* v. *LTV Steel Company, Inc.*, Civil Action No. 92-185 was lodged with the United States District Court for the Northern District of Indiana, Hammond Division. The proposed Consent Decree requires LTV Steel Company ("LTV") to remove and dispose of contaminated sediment from a water intake channel adjacent to LTV's Indiana Harbor Works facility in East Chicago, Indiana, to complete remedial actions to prevent any future discharge of pollutants to the water intake channel, and to pay a Clean Water Act civil penalty of $250,000.00.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *LTV Steel Company, Inc.*, D.J. Ref. No. 90-5-1-1-3406.

The proposed Consent Decree may be examined at the office of the United States Attorney, Northern District of Indiana, 507 State Street, Fourth Floor, Hammond, Indiana 46320; at the Region V Office of U.S. EPA, Records Center, Seventh Floor, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590; and at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building NW., Washington, DC 20044.

Copies of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue NW., Box 1097, Washington, DC 20004, [(202) 347-2072]. In requesting a copy, please enclose a check in the amount of $7.25 (25 cents per page for reproduction cost), payable to the Consent Decree Library.

Barry M. Hartman,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 92-13587 Filed 6-9-92; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting/recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

- The Agency of the Department issuing this recordkeeping/reporting requirement.
- The title of the recordkeeping/reporting requirement.
- The OMB and/or Agency identification numbers, if applicable.
- How often the recordkeeping/reporting requirement is needed.
- Whether small businesses or organizations are affected.
- An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.
- The number of forms in the request for approval, if applicable.
- An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Kenneth A. Mills (202-523-5095). Comments and questions about the items on this list should be directed to Mr. Mills, Office of Information Resources Management Policy, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, Room 3001, Washington, DC 20503 (202- 395-6880).

Any member of the public who wants to comment on recordkeeping/reporting requirements which have been submitted to OMB should advise Mr. Mills of this intent at the earliest possible date.

Revision

Veterans' Employment and Training Service

Veterans' Post-Separation Employment Survey

1293-0008

One-time data collection effort

Individuals or households; State or local governments 5,259 individual respondents; 1,315 total hours;

15 minutes per response; and

24 State Employment Security Agencies; 384 total hours;

16 hours per response

Total burden hours 1,699.

The data will support an evaluation of the Congressionally mandated Transition Assistance Program (TAP). Two data collection methods are proposed: (1) Telephone survey of individuals, and (2) collection of computerized unemployment earnings data from up to 24 State Employment Security Agencies (SESA).

Signed at Washington, DC this 4th day of June, 1992.

Kenneth A. Mills,

Departmental Clearance Officer.

[FR Doc. 92-13629 Filed 6-9-92; 8:45 am]

BILLING CODE 4510-79-M

Employment and Training Administration

[TA-W-27,000]

Applied Technologies, Inc. Boulder, CO; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on March 16, 1992 in response to a worker petition which was filed on March 16, 1992 on behalf of workers at Applied Technologies, Incorporated, Boulder, Colorado.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 28th day of May, 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-13624 Filed 6-9-92; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 22, 1992.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 22, 1992.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC, 20210.

Signed at Washington, DC this 26th day of May 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers/firm—	Location	Date received	Date of petition	Petition No.	Articles produced
Ensearch Exploration, Inc (wkrs)	Dallas, TX	05/26/92	05/12/92	27,290	Oil, gas producers.
Ensearch Exploration, Inc (wkrs)	Midland, TX	05/26/92	05/15/92	27,291	Oil, gas producers.
Webco Industries, Oil City Tube Div (wkrs)	Oil City, PA	05/26/92	05/11/92	27,292	Drawn tubing.
Johnson and Johnson (UPIU)	Milltown, NJ	05/26/92	05/07/92	27,293	Sanitary napkins and pads.
Torch Operating Co (Co)	Houma, LA	05/26/92	05/05/92	27,294	Crude oil and natural gas.
Fuel Resources Development (Co)	Denver, CO	05/26/92	05/12/92	27,295	Crude oil and natural gas.
Valley Steel Products (wkrs)	Centralia, IL	05/26/92	05/12/92	27,296	Steel pipe.
Mercer Rubber Co (URW)	Hamilton Square, NJ	05/26/92	05/11/92	27,297	Rubber hose and expansion joints.
J and G Shake Co (wkrs)	Forks, WA	05/26/92	05/12/92	27,298	Shakes and shingles.
Sprague Electric Co (wkrs)	Stamford, CT	05/26/92	05/04/92	27,299	Headquarters only.
Acme Electric Corp (wkrs)	Salt Lake City, UT	05/26/92	05/15/92	27,300	Linear power supplies.
Maine Cascade Iron Works (wkrs)	Clinton, ME	05/26/92	05/08/92	27,301	Structural steel.
General Motors, Inland Fisher Guide (UAW)	Grand Rapids, MI	05/26/92	05/01/92	27,302	Automobile seats.
Automatic Injection Molding (IBT)	Berkeley Heights, NJ	05/26/92	05/15/92	27,303	Plastic Medical products.
Kerr McGee Corp. (wkrs)	Morgan City, LA	05/26/92	05/14/92	27,304	Crude oil and natural gas.
Oxford of Tifton (Co)	Tifton, GA	05/26/92	05/18/92	27,305	Women's pants, shorts and skirts.
Cluett, Peabody Co., Inc. (Arrow Co) (Co)	Austell, GA	05/26/92	05/12/92	27,306	Men's shirts.
Thomas Industries, Inc. (IBEW)	Beaver Dam, KY	05/26/92	05/15/92	27,307	Residential lighting fixtures.
Chevron USA Production Co (Co)	Bakersfield, CA	05/26/92	05/19/92	27,308	Crude oil, natural gas.
Chevron USA Production Co (Co)	Midland, TX	05/26/92	05/19/92	27,309	Crude oil and natural gas.
Chevron USA Production Co (Co)	Houston, TX	05/26/92	05/19/92	27,310	Crude oil and natural gas.
Chevron USA Production Co (Co)	New Orleans, LA	05/26/92	05/19/92	27,311	Crude oil and natural gas.
Chevron USA Production Co (Co)	Englewood, CO	05/26/92	05/19/92	27,312	Crude oil and natural gas.
Chevron USA Production Co (Co)	Houston, TX	05/26/92	05/19/92	27,313	Crude oil and natural gas.
Fuel Resources Development Co (Co)	Meeker, CO	05/26/92	05/12/92	27,314	Crude oil and natural gas.
Fuel Resources Development Co (Co)	Durango, CO	05/26/92	05/12/92	27,315	Crude oil and natural gas.
Chevron USA Production Co (Co)	Houston, TX	05/26/92	05/19/92	27,316	Crude oil and natural gas.
Chevron USA Production Co (Co)	Houston, TX	05/26/92	05/19/92	27,317	Crude oil and natural gas.
Chevron USA Production Co (Co)	Concord, CA	05/26/92	05/19/92	27,318	Crude oil and natural gas.

[FR Doc. 92-13628 Filed 6-9-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-26,861]

Gerber Childrenswear, Inc., Pelzer, SC; Notice of Affirmative Determination Regarding Application for Reconsideration

On May 6, 1992, a company official requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers at the subject firm. The Department's Negative Determination was issued on April 23, 1992 and published in the Federal Register on May 5, 1992 (57 FR 19314).

It's claimed that the closing down of the weaving operations at Pelzer was the direct result of imported competition. In further communications with the company it was learned that already woven material for the cloth diapers is currently being imported by the company.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 2nd day of June 1992.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Services Unemployment Insurance Service.

[FR Doc. 92-13626 Filed 6-9-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-27, 152]

National Tank Co. (NATCO), Tulsa, OK; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 and application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at National Tank Company (NATCO), Tulsa, Oklahoma. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-27, 152; National Tank Company (NATCO)
Tulsa, Oklahoma (May 19, 1992)

Signed at Washington, DC, this 28th day of May 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-13627 Filed 6-9-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-26,912]

North American Exploration Co., Inc., Grant Tensor Geophysical Corp., Denver, CO; Notice of Negative Determination on Reconsideration

On April 30, 1992, the Department issued an Affirmative Determination Regarding Application for Reconsideration for workers and former workers of the subject firm. The denial notice was published in the Federal Register on May 19, 1992 (57 FR 21302).

One of the petitioners states that the Department was inconsistent in its determinations by certifying its parent company and denying the workers at the subject field location.

Investigation findings show that North American Exploration is an affiliate of Grant Tensor Geophysical Corporation, a successor firm of Grant Norpac. Workers at Grant Norpac in Denver were certified for TAA under petition TA-W-21,101.

Findings on reconsideration show that at the time of Grant Norpac's Denver certification which expired on November 22, 1990, the workers were engaged in both seismic data collection and marketing. The remaining Denver workers filing under TA-W-26,912 do not collect seismic data but only perform the service of marketing and as such do not produce an article within the meaning of the Trade Act of 1974. Service workers are certifiable only under very limited conditions, namely that the reduction in demand for their services must come from a production facility of a firm related by ownership or control and whose workers are independently certified for TAA. These conditions were not met for the Denver workers of North American Exploration Company.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance to workers and former workers of Grant Tensor Geophysical Corporation's North American Exploration Company, Inc., in Denver, Colorado.

Signed at Washington, DC, this 2nd day of June 1992.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Services Unemployment Insurance Service.

[FR Doc. 92-13625 Filed 6-9-92; 8:45 am]

BILLING CODE 4510-30-M

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 92-2]

Request for Information; Study on Waiver of Moral Rights in Visual Artworks

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of Inquiry.

SUMMARY: This Notice of Inquiry is issued to inform the public that the Copyright Office is examining the extent to which authors are waiving moral rights in their visual artworks under the waiver provisions of the Visual Artists Rights Act, which amended the Copyright Act, title 17, U.S. Code by adding section 106A. Section 608 of the Visual Artists Rights Act directs the Copyright Office to prepare a study on waivers of moral rights within five years of enactment. An interim report on the progress of the study is due on December 1, 1992, two years after the effective date of the law. The Office seeks public comments on and information about artists' contracts for the purpose of investigating how the waiver provision is working. We also seek information that will assist the Office in developing a survey of artists' contracts.

DATES: Comments should be received on or before September 8, 1992.

ADDRESSES: Interested persons should submit ten copies of their written comments as follows: If sent by mail: Dorothy Schrader, General Counsel, United States Copyright Office, Library of Congress, Department 17, Washington, DC 20540.

If delivered by hand: Office of the Register of Copyrights, Copyright Office, James Madison Memorial Building, room 407, First Street and Independence Avenue, SE., Washington, DC.

FOR ADDITIONAL INFORMATION CONTACT: Dorothy Schrader, General Counsel, Copyright Office, Library of Congress, Department 17, Washington, DC 20540. Telephone: (202) 707-8380.

SUPPLEMENTARY INFORMATION: On December 1, 1990, President Bush signed

into law Public Law 101-650. Title VI of this legislation contained provisions according visual artists certain rights of attribution (rights to receive name credit) and integrity (rights against distortion of visual arts works). These rights, also known as moral rights became generally effective on June 1, 1991. The most controversial feature of the legislation was whether or not the bill should provide for waiver of the moral rights, because of a concern that artists would be compelled to waive their rights without receiving fair remuneration. Congress decided, therefore, to continue to monitor this provision to see whether patterns were developing in artist's contracts that routinely provided for waiver of their moral rights. To that end, section 608 (a) of the legislation directs that:

> The Register of Copyrights shall conduct a study on the extent to which rights conferred by subsection (a) of the section 106A of title 17, United States Code, have been waived under subsection (e)(1) of such section.[1]

A progress report is to be presented to Congress two years after the date of enactment (December 1, 1992), and a final report is to be submitted not later than five years after the law was enacted (December 1, 1995). The present Notice is designed to assist the Copyright Office in fulfilling this mandate.

1. Impact of Berne Convention Adherence

On March 1, 1989, the United States adhered to the Berne Convention.[2] The provision for moral rights had long been considered a principal difference between U.S. law and the Berne Convention. Before 1989, the United States had relied for a worldwide copyright treaty on the Universal Copyright Convention (UCC), a multilaterial treaty to which the United States adhered as a founding member on September 16, 1955. The UCC does not require moral rights protection.

The Berne Convention's Article 6 *bis* provides that:

> Independent of the authority's economic rights, and even after the transfer of the said rights, the author shall have the right to claim authorship of the work and to object to any distortion, mutilation or other modification of, or other derogatory action in relation to, the said work, which would be prejudicial to his honor or reputation.

Under this mandate, members must accord nationals of other member countries rights of paternity and integrity that survive the transfer of copyright. The intent of this requirement is to protect the author from both entrepreneurs and himself, in recognition of the author's economic necessity sometimes to contract against his own interest.[3]

The continental legal system of droit d'auteur (literally, "author's rights") encompasses both economic (copyright) and noneconomic (moral) rights. Civil law countries have more experience in dealing with these rights than do systems with origins in English common law. Before 1990, the primary moral rights provision in United States federal law was contained in the Lanham Act. Common law principles such as libel, defamation, misrepresentation, and unfair competition also have been applied by courts to give authors relief for moral rights violations.[4] The Berne Convention's underlying philosophy promotes greater harmonization among the laws of member states, but the details of moral rights protection are regulated by national law. Member countries are required to provide the means of redress for violation of moral rights in their national laws, but the spoecific means may take a variety of forms, incuding civil or criminal provisions encompassing a diversity of sanctions.[5]

This degree of flexibility with respect to moral rights, coupled with the agreed-upon strategy to change U.S. law only to the extent that it was incompatible with the Berne Convention, allowed Congress to defer consideration of additional federal moral rights legislation. The Berne Convention Implementation Act (BCIA),[6] did not provide additional moral rights for authors. The Berne Convention is not self-executing in the United States. With respect to moral rights, section 3 of the Berne Convention Implementation Act expressly states:

> The provisions of the Berne Convention, the adherence of the United States thereto, and satisfaction of United States obligation thereunder, do not expand or reduce any right of an author of a work, whether claimed under Federal, State, or the common law—(1) to claim authorship of the work, or (2) to object to any distortion mutilation, or other modification of, or other derogatory action in relation to, the work, that would prejudice the author's honor or reputation.[7]

This specific language exemplifies the general philosophy that all United States obligations under the Berne Convention are satisfied by domestic law—either federal law or state common or statutory law.

2. The Visual Artists Rights Act of 1990

The Visual Artists Rights Act (VARA) responds to the public interest in protecting works of art against mutilation and destruction. A Picasso oil painting, "Trois Femmes," was cut up in 500 small pieces and sold as original work, with the entrepreneurs threatening to do more of the same with other works of art if the venture proved profitable. A Calder mobile was made stationary and painted to match an airport's color scheme.[8] These domestic wrongs were the target of the integrity rights granted to artists in the VARA.

Ten states provide some more rights protection for visual artists, which brings U.S. law in closer congruence with the Berne Convention.[9] Some of the state laws protect an authors' right of integrity while others have as their principle objective preserving the public's interest in works of art.

The Visual Artists Rights Act harmonized U.S. law with the Berne Convention to a greater degree. The legislation was narrowly crafted to limit visual artists' rights to a single subset of pictorial, graphic and sculptural works, restricted to the life of the author, and to two specific moral rights, paternity (the right of attribution) and integrity (the right against distortion, mutilation, or other modification).

The Visual Artists Rights Act (VARA) covers paintings, drawings, and sculptures that have been produced in an edition of 200 or fewer. It includes photographs produced for exhibition, but specifically excludes motion pictures and other audiovisual works. It does not include works made for hire or applied artworks.[10]

---

[1] Visual Artists Rights Act of 1990, Pub L 101-650, 104 Stat 5128, 17 U.S.C. 106A (1990) (hereafter VARA).

[2] The Convention for the Protection of Literary and Artistic Works, signed at Berne, Switzerland, on September 9, 1886. The United States adhered to the 1971 Paris text of the Convention. See, M. Nimmer, Nimmer on Copyright, App.

[3] World Intellectual Property Organization Guide to the Berne Convention (WIPO Guide) 42 (1978).

[4] S. Rep. No. 352, 100th Cong. 2d Sess. 9-10 (1988).

[5] Berne Convention Article 6*bis* (3), WIPO Guide, 44.

[6] Berne Convention Implementation Act, Pub. L. 100-568, 102 Stat. 2853, (1988) (hereafter BCIA).

[7] BCIA, 17 U.S.C. 3(b) note.

[8] Ossola, "Law for Art's Sake", Legal Times, Dec. 10, 1990, at 27; Kernan, "The Great Debate Over Artists' Rights," Washington Post, May 22, 1988, at F1.

[9] Cal. Civ. Code, Sec. 987 *et seq.* (West 1989); Conn. C.G.S.A. Sec. 42-116s *et seq.* (West 1989); L. Rev. Stat. Ann. R.S. 51:2152 *et seq.* (West 1987); Me. Rev. Stat. Ann. tit. 27, Sec. 303 et seq. (1988); Mass. Ann. Laws ch. 231, Sec. 85s (1992); N.J. Stat. Ann. Sec. 2A: 24A-1 *et seq.* (West 1989); N.M. Stat. Ann. Sec. 13-4B-2 *et seq.* (1989); New York Arts and Cultural Affairs Law Sec. 14.01 *et seq.* (McKinney 1989); Pa. Stat. Ann. tit. 73, Sec. 2101 *et seq.* (Purdon Supp. 1989); R.I. Gen. Laws, Sec. 5-62-2 *et seq.* (1987).

[10] VARA, at 17 U.S.C. 101 ("work of visual arts").

The VARA gives artists the following rights of attribution and integrity: (1) The right to be named as author of the work; (2) the right not to be named as author of a work not created by that person; (3) the right not to be named as author of a work that is distorted, mutilated, or otherwise modified in a manner that damages the author's reputation; (4) the right to prevent the intentional distortion or modification of a work in a way that prejudices the author's reputation, including the right to relief for such damage; and (5) the right to prevent the destruction of a work of recignized stature, and the right to relief for such destruction.[11]

Integrity rights are subject to certain limitations when a work of art is incorporated into or otherwise made part of a building. Where such a work cannot be removed without being damaged, the owner of the building may secure written consent to install the work from the artist, including an acknowledgement of the possible damage to the work upon removal. This acknowledgement operates as a waiver for actions that would otherwise infringe the artist's rights of integrity in works installed in building.[12]

3. The Waiver Provision

Under the VARA, artists may waive their rights of attribution and integrity with respect to a particular work.

The VARA states that these rights

> may not be transferred, but [they] may be waived if the author expressly agrees to such waiver in a written instrument signed by the author. Such instrument shall specifically identify the work, and uses of that work, to which the waiver applies, and the waiver shall apply only to the work and uses so identified. In the case of a joint work prepared by two or more authors, a waiver of rights under this paragraph made by one such author waives such right for all authors.[13]

The fact that one joint author may waive rights in the work for all joint authors follows traditional United States copyright law, in that one coauthor may license a work without agreement with the other coauthors, subject to an obligation to account for profits generated from licensing the work.

The legislative history of the VARA emphasizes that waivers and the circumstances surrounding them must be narrowly circumscribed. Waivers will be valid only if the parties follow the rules set forth in subsection (e)(1) of section 106A. Noting that the bill in essence permits the author to hold harmless activity that would otherwise violate the law, the House Judiciary Committee further stated that:

> A waiver applies only to the specific person to whom waiver is made. That person may not subsequently transfer the waiver to a third party. Any third parties must obtain waivers directly from the author.[14]

To further evidence the specificity of the waiver provision, the Committee reemphasized that blanket waivers are prohibited and that waivers apply only to a specifically identified work and a particular use. Additionally, waivers may not be implied from the transfer of copyright ownership or transfers of material objects.

Discussion during deliberations on the bill centered around whether providing for waiver might lead to a boiler-plate clause for waiver of moral rights in every contract for sale or other transfer of copyright.[15] Doubts were expressed about whether the artists would be able to contract at arms length. Some critics said the waiver provision eviscerates the moral rights otherwise conferred by the VARA.

Although the laws of member countries of the Berne Convention adopt varying measures to protect moral rights, they are generally broader than those granted by U.S. law. The laws of France provide that moral rights are inalienable and non-waivable. Under French law, for example, an American motion picture director ultimately prevailed in an action to prevent the performance of a motion picture colorized without the director's consent.[16]

On the other end of the spectrum is the United Kingdom's moral rights law of 1988,[17] which grants such rights to authors of literary, musical and artistic works, including motion pictures. The Copyright, Designs and Patents Act makes the rights of attribution subject to waiver and consent (oral). A further limitation is that the British law requires the author affirmatively to assert his right of attribution.

4. Freedom of Contract vs. Unwaivable Protection

Precisely because of varying degrees of overall uncertainty about the long-term validity of the waiver provision, Congress directed the Copyright Office to report on artists' experience in a national legal environment where waivers are freely available to a transferor.

Two fundamental questions about any waiver are: (1) Whether the author made an intentional relinquishment or abandonment of a known right or privilege, and (2) whether the right was voluntarily and intelligently waived. The argument in favor of artists' freedom to contract away moral rights is that authors can benefit for licensing their rights in a free market; the opposing argument is that most authors lack the bargaining power to negotiate at arm's length—publishers can compel waivers on an "accept this or get nothing" basis.[18] In weighing these two conflicting concepts—contractual freedom or paternalistic safeguards for authors, the public policy of maintaining the integrity of artwork's provenance must also be considered. The copyright law protects the author's economic interest despite the reality of his or her bargaining positions in the renewal and termination provisions, for example, by providing that these rights cannot be irretrievably transferred before the interest vests.[19]

In passing the VARA, Congress decided to follow the common law rule favoring freedom of contract and made moral rights waivable in the face of substantial concern that detrimental practices are difficult to dislodge once in place. The basic task for the Office will be to report on whether, in the short period since the VARA became law (June 1, 1991), Congress's purpose has been realized or frustrated. To monitor contractural developments, Congress has directed the Office to submit an interim report in a relatively short time, eighteen months after the effective date, followed by a full report in 1995—on the effectiveness of the waiver provision in achieving the desired goals—to protect the bond between the artist and his or her work, while facilitating marketing of the work.

In order to assist the Copyright Office in preparing these reports, public comment on the subject of moral rights waivers in contracts with artists is invited. The Office especially seeks objective factual information on contracts and contract offers for the purpose of preparing its final report. We also seek comment of an advisory nature on a proposed method of gathering factual information. For example:

1. How can information be gathered on contracts with individual artists who are out

---

[11] VARA, at 17 U.S.C. 106A(a).

[12] VARA, at 17 U.S.C. 113(d)(1).

[13] 17 U.S.C. 106A(e)(1).

[14] The Visual Artists Rights Act of 1990, H.R. Rep. No. 514, 101st Cong. 2d Sess., 18–19 (1990).

[15] See, Damich, Edward, The Visual Artists Rights Act of 1990, 39 Cath. U.L. Rev. 945, 966 (Summer, 1990).

[16] *Turner Entertainment Co.* v. *Huston*, Cass. Civ. Ire, 89–19.522 (May 28, 1991).

[17] Copyright, Designs and Patents Act, 1988, ch. 48.

[18] See, *Gonzalez* v. *County of Hidalgo, Texas* 489 F.2d 1043, 1051 (5th Cir. 1973).

[19] *See*, 17 U.S.C. 203(b)(4), 304(c)(6)(D).

of touch with national organizations? Should the Office hold public hearings on artist waivers? Should the Office engage an independent research firm to conduct a survey of artists (assuming funds are authorized by Congress)?

2. Should the Office conduct surveys of artists' rights in foreign countries, particularly France, Germany, and Great Britain?

3. Are there any other methods of gathering factual information about waiver of moral rights?

In addition, we specifically request comment on the following questions:

1. What constitutes relative equivalence of bargaining power? Do even well-known artists inherently have unequal bargaining power in deadline with established museums and other organizations?

2. Are waivers of moral rights regularly included in artists' contracts? Are the parties to contracts generally aware of the provisions of the law granting integrity and attribution rights to authors? To what extent is any failure of contract language to mention waivers due to lack of knowledge about the new law?

3. How specific are the contracts? Are the works sufficiently identified? Are the uses particularly identified?

4. Do those who secure waivers exercise them or are waivers secured simply as "insurance policies?"

5. What is the ratio of attribution waivers to waivers of the right of integrity? Are waivers given for artistic work to be incorporated in buildings proportionately greater than waivers for other works?

6. In what kinds of contracts are waivers included—contracts for sale of the work of art; for copyright ownership; to commission a work of art; stand alone waivers? Are the waivers limited in time? Do artists find any particular offers for waiver disturbing?

7. What is the economic effect of the inclusion of a waiver in a contract? Does the waiver bring a separate price? Is the price of the work or other thing exchanged for value significantly lower than the market price when waiver is not included?

8. Does the artist's experience or renouwn have any effect on the presence, absence, or nature of a waiver in a contract? What effect?

9. Do the same factors that influence artists' decisions to waive rights of attribution and integrity influence their decisions to enter into other contracts?

10. Might constitutional problems be created by a new provision prohibiting authors from waiving their artists' rights?

11. Do public contracts differ in the extent or nature of waivers offered in contracts with artists?

Copies of all comments received will be available for public inspection and copying between the hours of 8:30 a.m. and 4 p.m., Monday through Friday, in room 401, James Madison Memorial Building, Library of Congress, First Street and Independence Avenue SE., Washington, DC.

Dated: June 4, 1992.

Ralph Oman,

Register of Copyrights.

[FR Doc. 92-13544 Filed 6-9-92; 8:45am]

BILLING CODE 1410-07-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meeting; Theater Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Theater Advisory Panel (Overview/Distinguished Theater Artists Fellowships Section) to the National Council on the Arts will be held on June 22-23, 1992 from 9:30 a.m.-5:30 p.m. in room 714 at the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

Portions of this meeting will be open to the public on June 22 from 9:30 a.m.-5:30 p.m. and June 23 from 9:30 am-2:30 p.m. The topics will be opening remarks and discussion of issues related to the field.

The remaining portion of this meeting on June 23 from 2:30 p.m.-5:30 p.m. is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, this session will be closed to the public pursuant to subsection (c) (4), (6), and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: May 26, 1992.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 92-13584 Filed 6-9-92; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from May 15, 1992 through May 29, 1992. The last biweekly notice was published on May 27, 1992 (57 FR 22259).

Notice Of Consideration Of Issuance Of Amendment To Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received

within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Directives Review Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By July 10, 1992, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to **(Project Director)**: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room for the particular facility involved.

Commonwealth Edison Company, Docket Nos. STN 50-454 and STN 50-455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Date of application for amendments: March 31, 1991

Description of amendments request: The proposed amendment changes were the result of a design basis reconstitution effort for the Ultimate Heat Sink (UHS). These changes include revising Technical Specification (TS) 3.7.5.b to require six fans on the mechanical draft cooling towers to be operable in the high speed mode when either or both units are in operating Modes 1-4. The unit specific fan requirements are removed and the essential service water pump discharge temperature limit in TS 3.7.5.d is being reduced. ACTION b for TS 3.7.5 is being revised to require that if only five fans are operable in the high speed mode, then within 1 hour verify that the remaining fans are capable of being powered from their respective emergency diesel generators (EDG). Restore at least six fans to operable status within 72 hours or shut down the units. TS 3.7.5.e is adding the UHS cooling tower basin level switches to the specification as items needing to be operable. ACTION statement 3.7.5.C.2 adds that the provisions of Specification 3.0.4 are not applicable. Several editorial changes were made for TS 3/4.7.5 to clarify the specification. Also the Bases were re-written to reflect the results of the design basis reconstitution effort initiated for the UHS.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The Essential Service Water (SX) system provides cooling water flow from the station's Ultimate Heat Sink (UHS) mechanical draft cooling towers to various safeguard equipment. The system is [composed] of two pumps per unit, divided into two trains, where the common trains (i.e., trains A or B) of the two units share a UHS cooling tower. Each cooling tower has four fans, (high and low speed capability, 480 volts AC) two of which are loaded on each unit's safeguard bus, thereby maintaining the required train separation. Providing makeup water to the UHS are two trains of SX makeup pumps using the Rock River as a source of water.

The UHS is designed to dissipate the maximum possible reactor decay heat and essential cooling system heat loads under worst case environmental conditions after normal reactor shutdowns and all UFSAR chapter 15 accident and transient scenarios. The Technical Specification Ultimate Heat Sink tower parameters of required number of fans, basin level, and basin temperature ensure the UHS will always be in a condition capable of performing its design functions from normal operations to its design basis limiting scenario of a Loss of Coolant Accident (LOCA), Loss of Offsite Power (LOOP) on one unit and a normal shutdown of the other unit from full power to cold shutdown and the most limiting single active failure. The UHS can [s]till perform its design function within the allowances of the Action Requirements assuming no single active failure. This is consistent with the methodology of action requirement development.

Design calculations show that the design basis accident limiting scenario can be met with a minimum of five fans operating in high speed with a basin temperature less than or equal to 96F. An EDG failure of the LOCA/LOOP unit would result in 4 fans operable, which is acceptable, since the LOCA unit heat input to the SX system is reduced by approximately one half. The proposed changes to the UHS LCO would require 6 of the 8 cooling fans to be operable when one or both units are in Modes 1 through 4. Also changed are the SX pump discharge temperature limits. The maximum basin temperature allowed has been reduced to 96F from 98F, provided the operable fans are running in high speed. These parameters do not, in themselves, factor into any initiating event of UFSAR chapter 15 accident scenarios and consequently do not increase the probability of occurrence for these previously evaluated accidents. However, although not a factor in initiating any accident, the UHS plays a vital role in mitigating the consequences of any accident or transient. The proposed changes will ensure that the minimum conditions necessary for the UHS to perform its design functions will always be met. Engineering calculations demonstrate that the SX supply design temperature limit of 100F, which was assumed as an initial input for the accident analyses, is preserved. Consequently, the proposed changes to the number of cooling tower fans operable and SX pump discharge temperature do not increase the consequences of any accidents previously evaluated.

The Byron UHS requires makeup capability in order to meet the design criteria of providing cooling for 30 days. This makeup capability is provided by the two trains of SX makeup pumps taking suction from the Rock River. Each UHS basin has a level switch which provides an automatic start of the appropriate SX makeup pump if basin level drops below the auto-start setpoint of 53%. Neither the UHS basin water level nor its automatic makeup feature factor into any initiating event of the UFSAR chapter 15 accidents and therefore does not increase the probability of occurrence of any of these accidents. The proposed addition of the basin level switches to the LCO requirements would uncouple their operability requirements from that of the SX makeup trains. The action requirement for one or two inoperable basin level switches would allow for an alternative means of ensuring adequate water inventory during the period of inoperability. Separate level channels provide operators indication of basin level. By ensuring [that] basin level is at least 82%, there is sufficient time after the limiting design basis accident scenario to monitor UHS basin level and manually initiate the start of an SX makeup pump or deep well pump in order to maintain necessary basin inventory. With this proposed change, the UHS can still perform its design function for the required 30 days. Therefore the consequences of any accident previously evaluated is not increased.

The proposed change to the action requirements for the SX makeup pump would allow a unit startup if in the 7 or 14 day Limiting Condition for Operation Action Requirement (LCOAR). A degraded SX makeup capability is not an initiating event for any chapter 15 accidents analyzed. The seismically qualified deep well pumps with safety related power supplies provide an adequate backup to the SX makeup trains. To rely on a deep well pump as a backup for one makeup pump for a limited period of time does not significantly increase the consequences of accidents previously evaluated.

The other proposed changes to the UHS Technical Specification are considered administrative in nature. They do not change in any manner the licensing basis, operations, maintenance or regulatory requirements of the UHS. Therefore these changes do not involve any increase in the probability or consequences of an accident previously evaluated.

B. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed limits in the number of operable cooling tower fans and SX pump discharge temperature are fully within the design capabilities of the UHS. With these LCO and LCOAR limits the UHS will always be in a condition to dissipate the required heat load from the design limiting accident scenario of one unit undergoing large break LOCA/LOOP and the normal shutdown of

the other unit. These changes do not involve any new hardware changes or allow any new modes of operation. These changes are necessary to support the revised licensing basis of the UHS. Consequently, they do not create the possibility of a new or different kind of accident from those previously evaluated.

Allowing for a Unit startup while one train of SX makeup is inoperable does not affect plant safety. The analyses performed bound the situation of both units at full power. This does not, in itself, create a new or different kind of accident from those previously evaluated.

The new basin level switch LCO would allow for continued plant operations with the automatic makeup feature inoperable provided alternative actions are taken to ensure the UHS will be in a condition to perform its design functions. No physical modifications are being made to the plant. The proposed alternative means of ensuring adequate water for the UHS both initially and for long term cooling is adequate. Allowing continued plant operations with the automatic makeup inoperable does not create the possibility of a new or different kind of accident from those previously evaluated.

The other proposed changes to the UHS Technical Specification are administrative in nature. They do not in any manner change the licensing basis, operations, maintenance, or regulatory requirements of the UHS. Therefore they do not create the possibility of a new or different kind of accident from those previously evaluated.

C. The proposed changes do not involve a significant reduction in a margin of safety.

The new LCO limits for number of fans and SX pump discharge temperature are based on the results of the UHS reconstitution effort which in part re-defined the Technical Specification margin of safety. These new limits will ensure under the most limiting accident scenario that cooling water from the basin will meet the accident analyses SX input limit of 100F. The proposed LCO limits would ensure, at the start of the limiting accident scenario, the required number of fans are operable, a basin level of greater than 50%, and basin temperature of no greater than 96F. Under worst case environmental conditions, for the worst case scenario evaluated, design calculations show the basin water temperature will reach a maximum of 99.1°F.

Allowing for continued operations with the automatic makeup feature inoperable does not significantly reduce any margin of safety. Compensatory actions required by the specification will be taken to ensure there is an adequate source of cooling water to meet the SX design bases.

The other proposed changes to the UHS specification are administrative in nature and do not reduce any margins of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: The Byron Public Library, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010.

Attorney to licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690.

NRC Project Director: Richard J. Barrett

Commonwealth Edison Company, Docket Nos. STN 50-454 and STN 50-455, Byron Station, Unit Nos. 1 and 2, Ogle County, IllinoisDocket Nos. STN 50-456 and STN 50-457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of application for amendments: November 30, 1988, as supplemented on May 30, 1990 (56 FR 11775), April 19, 1991 (56 FR 22462), and on February 27, 1992.

Description of amendments request: The proposed amendment would revise Technical Specification (TS) 3.0.4, 4.0.3, and 4.0.4 and those TSs that are affected by these sections. The amendments are based on the recommendations provided by the staff in Generic Letter (GL) 87-09, issued May 4, 1987, to solve three problems that have been encountered with the general requirements on the applicability of Limiting Conditions for Operation and Surveillance Requirements in Sections 3.0 and 4.0 of the Tss. The February 27 supplement was provided to revise the original amendment application to clarify the request relating to Surveillance Requirement 4.2.3.5.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed changes involve Technical Specifications 3.0.4, 4.0.3, and 4.0.4, plus those technical specifications that are affected by these sections. These changes are being made and requested in accordance with NRC Generic Letter 87-09, issued on May 4, 1987.

The first change involves Specification 3.0.4, its bases, and associated Technical Specifications that reference it. Inconsistent application of exceptions to Specification 3.0.4 impacts the operation of the facility in two ways. First, it delays startup under conditions in which conformance to the Action Requirements establishes an acceptable level of safety for unlimited continued operation of the facility. Second, it delays a return to power operation when the facility is required to be in a lower mode of operation as a consequence of other Action Requirements. In this case, the Limiting Condition for Operation must be met without reliance on the Action Requirements, before returning the facility to that operational mode or other specified condition for which unlimited continued operation was previously permitted, in accordance with the Action Requirements. As a consequence of the change to Specification 3.0.4, Specifications with Action Requirements that permit continued operations no longer need to reference "3.0.4 is not applicable".

The second and third changes involved Specifications 4.0.3 and 4.0.4. Some Action Requirements have allowable outage time limits that do not allow sufficient time for the completion of a missed surveillance, before the Action Requirements would necessitate a plant shutdown. If a plant shutdown is required before a missed surveillance is completed, it is likely that the surveillance would be conducted during the shutdown in an effort to terminate the shutdown requirement. This circumstance is undesirable for two reasons:

(a) increased pressures on plant staff to complete the surveillance could lead to errors that may result in plant upset, and

(b) the plant would be in a transient state involving potential upsets to the plant that could require a demand for the system when the system is removed from service for testing.

The proposed changes will also help clarify the potential conflicts between Specifications 4.0.3 and 4.0.4. The first conflict could arise when a plant shutdown is required as a consequence of an Action Requirement. This will require surveillances to become due prior to entry into a lower mode. This could result in delays reaching lower modes as a result of a Technical Specification Action Requirement.

The second conflict could arise when Surveillance Requirements can only be completed after entry into a mode or specified condition for which the Surveillance Requirements apply, and an exception to the requirements of Specification 4.0.4 is allowed. However, upon entry into this mode or condition, the requirements of Specification 4.0.3 may not be met because the Surveillance Requirements may not have been performed within the allowed surveillance interval. Allowing for a delay in the applicability of Action Requirements for Specification 4.0.3 will provide an appropriate time limit for the completion of Surveillance Requirements that are allowed an exception to Specification 4.0.4. It has been noted that some surveillances that state "4.0.4 not applicable", do involve performance times in excess of the 24 hours allowed by this change and Generic Letter 87-09. These specific surveillances have been identified, and changes are proposed to bound the conditions required to perform the surveillance, as well as limits for completion of the surveillance. This should provide an acceptable means to establish required conditions, as well as set a reasonable completion requirement.

The fourth change involves a revision to the incore-excore surveillance frequency. Currently, the single point comparison of incore to excore axial flux difference and the incore excore calibrations are being performed every 31 and 92 days, respectively. These checks and calibrations are core exposure related parameters. In the case of

an extended period of low power operations or outages, re-performance of these surveillances would not be warranted. The proposed revision will change the frequency of these surveillances from a fixed frequency to an exposure related frequency. This change has been previously reviewed and approved for Vogtle Unit 1.

The proposed changes do not increase the probability or consequences of a accident previously evaluated. In regards to the first change, systems and equipment that have indefinite allowable outage times have been shown not to have a direct impact on accidents. In regards to the second and third change, surveillance requirements are defined in 10 CFR 50.36 as those requirements that assure the necessary quality of systems and components are maintained such that safety limits are maintained and limiting conditions for operation are met under these changes. The appropriate surveillances will still be performed. The proposed changes will only allow flexibility in performing these surveillance requirements prior to a plant shutdown being necessitated in the case of a surveillance being inadvertently missed.

The conditions and bounding limits proposed on several surveillances are necessary due to the fact that these surveillances cannot be completed within 24 hours or entry into the required mode. These surveillances in some cases require specific power levels and stability to perform. The limitations chosen do not differ from the present method in which these surveillances are performed. Limitations are specified to ensure surveillance completion.

In regards to the fourth change, the required surveillances will still be performed. The bases for these surveillances is to calibrate and check the calibration of the excore instruments using the incore instruments. These checks and calibration are required due to shifting flux profiles due to flux redistribution. Flux redistribution is primarily a function of core depletion and not time. The proposed change will tie the performance of these surveillances to a direct measurement of core depletion.

The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated. No new equipment is being introduced as a result of the changes. These changes do not result in equipment being operated in a manner different from present requirements. No change is being made which alters the function of any plant equipment.

The proposed changes do not involve a significant reduction in a margin of safety. In regards to the first change, conformance to Action Requirements that permit continued operation of the facility have been shown to provide an acceptable level of safety for indefinite operation. In regards to the second and third changes, allowing an appropriate time period for performance of a missed surveillance, a surveillance required by entry into an action statement or performance of one precluded by plant conditions, would in effect reduce the possibility for a potential plant upset. In regards to the fourth change, the surveillance frequencies involved are changes due to the parameters being core depletion dependent. The best measure for this is in effective full power days. Hence, the proposed change will not reduce the margin of safety, based on its performance being tied to a depletion based frequency.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: For Byron, the Byron Public Library, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Attorney to licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690.

NRC Project Director: Richard J. Barrett

Commonwealth Edison Company, Docket Nos. STN 50-454 and STN 50-455, Byron Station, Unit Nos. 1 and 2, Ogle County, IllinoisDocket Nos. STN 50-456 and STN 50-457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of application for amendments: April 15, 1992

Description of amendments request: The proposed change will revise Technical Specification 2.2.1, 3.3.2, Table 2.2-1, Table 3.3-4 and their associated bases. This change reflects the results of the Setpoint Reconciliation Program. The results indicated a number of changes are required for the values of Total Allowance (TA), Sensor Error (SE), Allowable Value (AV) and Z which represents the statistical summation of errors assumed in the safety analysis excluding those associated with sensor and rack drift and the accuracy of their measurement.

Basis for proposed no significant hazards consideration determination: The proposed amendment involves the following changes:

As a result of the Setpoint Study performed by Commonwealth Edison Company (CECo), the Braidwood and Byron Station's are requesting changes in the AV for some reactor trip system (RTS) and engineered safety feature actuation system (ESFAS) instrumentation. CECo is requesting that the Turbine Trip Emergency Trip Header Pressure Trip Setpoint and AV be revised from $\geq$ 540 psig to $\geq$ 1000 psig and $\geq$ 520 psig to $\geq$ 816 psig, respectively. The TA, Z, and SE values currently in Technical Specification Tables 2.2-1 and 3.3-4 will be deleted from those tables. As a result of this proposed change, Equation 2.2-1 would also be deleted from Technical Specifications 2.2.1 and 3.3.2, along with the corresponding action statements and Bases.

CECo is requesting that the cycle specific requirements contained on page 2-8, Note 1, Parts (i), (ii), and (iii) be deleted for Byron and Braidwood and cycle specific relief for Byron Technical Specification 3.3.2 be deleted since they are no longer applicable.

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes to the AVs for RTS and ESFAS instrumentation will continue to ensure that the associated RTS or ESFAS actuation signals will be generated when required within the bounds of the plant's safety analyses. The proposed changes to the RTS Turbine Trip Emergency Trip Header Pressure Trip Setpoint and AV will generate a reactor trip signal quicker than the current Technical Specification values due to the conservative nature of the change.

The proposed removal of the cycle specific relief or the TA, Z, and SE values from the Technical Specifications will have no effect on the analyses of record. These changes are considered administrative in nature.

Some of the proposed changes to the Avs for RTS and ESFAS instrumentation are in the conservative direction with respect to the current Technical Specification value. This will cause the associated RTS or ESFAS actuation to occur sooner when the monitored parameter exceeds its AV. The proposed change to the Turbine Trip Emergency Trip Header Pressure Trip Setpoint and AV will initiate a reactor trip sooner than the currently allowed Technical Specification values.

Many of the proposed changes to the Avs for RTS and ESFAS instrumentation are in the nonconservative direction with respect to the current Technical Specification value. This will cause a delay in the associated RTS or ESFAS actuation when the monitored parameter exceeds its AV. However, all of these changes in the nonconservative direction are bounded by the plant's safety analyses and therefore, do not impact the probability or consequences of previously analyzed transients.

Two transients required reanalysis to utilize existing analytical margin. These were the Turbine Trip on High-High Steam Generator Water Level and the RCS Low Flow Reactor Trip. Both transients were successfully reanalyzed with acceptable results.

The probability of either transient occurring will not increase. No change in the manner in which the actuation occurs is being proposed, nor are the actuation setpoints being revised.

The consequences of the Turbine Trip transient will not be increased. The increase in the AV for the D-4 SG High-High Water Level Turbine Trip and Feedwater Isolation Actuation will delay the generation of those actuation signals approximately 2.5 seconds from the time they would have occurred using the current Technical Specification AV. Increasing the Safety Analysis Limit (SAL) to accommodate the proposed AV will have no appreciable effect on the Departure from Nucleate Boiling Ratio (DNBR) since it is effectively constant at the time of signal actuation and remains well above the Departure from Nucleate Boiling (DNB) limit throughout the entire transient.

With respect to the RCS Low Flow transient, the consequences of this accident will not be increased. The decrease in the AV for RCS Flow Low can be accounted for by decreasing the SAL without affecting the outcome of the safety analysis. For the Locked Rotor/Shaft Break event, there will be no change in the time in which a reactor trip is initiated since the reduction in RCS flow is so rapid. For the Partial Loss of Forced Flow event, the change in the SAL will result in a delay of the initiation of the reactor trip signal by less than 0.1 second. This change will not significantly affect the DNBR transient.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes to the Avs for RTS and ESFAS instrumentation will only affect the allowable setpoint at which a piece of equipment is actuated. No physical equipment changes are being made, and therefore, no new equipment failure modes are being introduced as a result of these proposed changes.

The proposed changes to the RTS Turbine Trip Emergency Trip Header Pressure Trip Setpoint and AV will affect the setpoint at which a reactor trip signal is generated as a result of decreasing pressure in the main turbine emergency trip header. No physical equipment changes are being made, and therefore, no new equipment failure modes are being introduced as a result of these proposed changes.

The proposed removal of the TA, Z, and SE values from the Technical Specifications will have no effect on plant equipment, and therefore, no new equipment failure modes are being introduced as a result of these proposed changes.

The proposed removal of cycle specific relief no longer applicable from the Technical Specifications will have no effect on plant equipment, and therefore, no new equipment failure modes are being introduced as a result of these proposed changes.

The probability of a malfunction of equipment important to safety will not increase. There will be no change in plant equipment as a result of these proposed changes. Sufficient redundancy of equipment currently exists to ensure that the appropriate actuation signals are generated when the monitored parameters exceed their associated trip setpoints.

The consequences of a malfunction of equipment important to safety will not increase. There will be no change in plant equipment as a result of these proposed changes. Sufficient redundancy of equipment currently exists to ensure that the appropriate actuation signals are generated when the monitored parameters exceed their associated trip setpoints.

The possibility of a new or different type of accident will not be created as a result of these proposed changes. Except for the two types of accidents previously discussed, these proposed changes were already bounded by the existing safety analyses. For the two accidents previously discussed, the corresponding SALs were changed to bound the proposed changes without affecting the outcomes of the corresponding safety analyses.

3. Does the proposed change involve a significant reduction in a margin of safety?

There is no significant reduction in the margin of safety from these proposed changes. Except for the two types of accidents previously discussed, these proposed changes were already bounded by the existing safety analyses. For the two accidents previously discussed, the corresponding SALs were changed to bound the proposed changes without affecting the outcomes of the corresponding safety analyses.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: For Byron, the Byron Public Library, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Byron, the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Attorney to licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690.

NRC Project Director: Richard J. Barrett

Commonwealth Edison Company, Docket No. 50-237, Dresden Nuclear Power Station, Unit 2, Grundy County, Illinois

Date of application for amendment: April 24 and May 13, 1992

Description of amendment request: The proposed license change clarifies the reporting requirements of Section 2.G of Facility Operating License No. DRP-19. As currently written, Section 2.G specifies NRC notification for violations to any requirements specified in Section 2.C of the license. However, Section 2.C(2) to Facility Operating License No.DPR-19 includes requirements for Appendix A, Technical Specifications (TS), for the Dresden Nuclear Power Station. Section 2.G does not clearly define Dresden's responsibility for reporting to the NRC violations from the requirements of Appendix A, TS, beyond the specific reporting requirements already delineated within Dresden's TS. Therefore, Commonwealth Edison Company proposes changing Section 2.G of Facility Operating License No. DPR-19 to clarify Dresden's TS reporting requirements.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed amendment does not involve a significant hazards consideration because it would not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed. The individual license condition discussed [in the April 24, 1992 submittal] is not warranted; therefore, the clarification of this license condition is appropriate and safe. As a result of the proposed amendment, there are no physical changes to the facility and all operating procedures, limiting conditions for operation (LCO), limiting safety system settings, and safety limits specified in the Technical Specifications will remain unchanged. The proposed change is an administrative reporting requirement clarification that does

not in any way affect a previously analyzed accident.

2. Create the possibility of a new or different kind of accident from any previously evaluated. Since there are no changes in the way the plant is operated, the potential for an unanalyzed accident is not created. The proposed changes are administrative in nature and do not affect any accident initiators for Dresden Station. No new failure modes are introduced.

3. Involve a significant reduction in a margin of safety. Plant safety margins are established through LCOs, limiting safety system settings, and safety limits specified in the Technical Specifications. As a result of the proposed amendment, there will be no changes to either the physical design of the plant or to any of these settings and limits. The proposed changes are administrative and do not affect the safe operation of Dresden Station. Therefore, there will be no changes to any of the margins of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60450.

Attorney to licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690.

NRC Project Director: Richard J. Barrett

Commonwealth Edison Company, Docket Nos. 50-237 and 50-249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Date of application for amendments: April 24, 1992

Description of amendments request: The proposed amendments would delete Section 6.2.B (Radiation Protection Procedure) of the Technical Specifications and replace it with Sections 6.11 and 6.12 which define a Radiation Protection Program and specify the requirements of a High Radiation Area, respectively.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated because:

The proposed change affects administrative controls exercised to restrict access to high radiation areas by plant personnel and does not affect plant system safety.

The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because:

The proposed change affects administrative controls exercised to restrict access to high radiation areas by plant personnel and does not relate to plant system safety. Therefore, this change does not create the possibility of a new or different kind of accident previously evaluated.

The proposed changes do not involve a significant reduction in a margin of safety because:

The proposed change is administrative in nature and does not alter the manner in which equipment required for the safe operation of the plant is operated. There are no setpoint or operational limitations being altered or changed as a result of this revision. The changes will not affect the administrative limits in place and will not reduce the station's ability to enforce these limits. Therefore, this change has no effect on the margin of plant safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60450.

Attorney to licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690.

NRC Project Director: Richard J. Barrett

Commonwealth Edison Company, Docket Nos. STN 50-454 and STN 50-455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois Docket Nos. STN 50-456 and STN 50-457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois Docket Nos. 50-237 and 50-249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois Docket Nos. 50-373 and 50-374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois Docket Nos. 50-254 and 50-265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station, Units 1 and 2, Lake County, Illinois

Date of application for amendments: May 7, 1992

Description of amendments request: Commonwealth Edison proposes to revise the Administrative Controls section of the Technical Specifications for all six of its nuclear stations. The proposed revision consists of administrative changes which revise the types of procedures which require review by the Onsite Review and Investigative Function (OSR&IF), specifies the level of review and approval for procedures governed by the proposed Technical Review and Control process, and clarifies the authority assigned to the OSR&IF. Specifically, the proposed change modifies the scope of items required to be reviewed by the OSR&IF by limiting the review of procedures to the applicable administrative procedures recommended in Appendix A of Regulatory Guide 1.33, Revision 2 and the Emergency Operating Procedures. Procedures which do not require review by the OSR&IF shall be subject to review and approval under the proposed Technical Review and Control process. Those procedure revisions which are determined to have the potential to impact nuclear safety will be referred to the OSR&IF as currently required.

The Technical Review and Control process will consist of an independent review conducted by a qualified individual knowledgeable in the area affected other than the individual who prepared the procedure. In addition to ensuring the procedure is technically correct, the technical reviewer will be responsible for determining if a cross-disciplinary review is required. The technical reviewer has the ability to increase discipline review requirements as necessary to assure an adequate review is performed.

In addition, editorial changes have been proposed to provide clarity, eliminate extraneous references to specific organizational titles, and provide conforming changes to the proposed administrative changes. All six stations' Section 6 OSR&IF descriptions are being standardized to the current Byron and Braidwood descriptions, as modified by this submittal.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The probability of an accident occurring has not been increased. The procedures governing plant operation will continue to ensure that the plant parameters are maintained within acceptable parameters. This change will not increase the likelihood that a transient initiating event will occur because most transients are initiated by equipment malfunction and/or catastrophic system failure. These failure mechanisms are not impacted by this proposed change.

The consequence of accidents previously analyzed remain unchanged. No change in

the required level of availability of mitigative equipment is being proposed. The procedures utilized to mitigate the design basis event will continue to be reviewed and approved by the Onsite Review Function. Additionally, no equipment modifications are being proposed which would impact the expected accident sequence.

The editorial and administrative changes do not effect the mechanisms by which accidents occur, progress, or are mitigated. Therefore, these changes will not adversely impact the accident analyses.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

This revision is not proposing new methods of operating equipment, nor is any new equipment being introduced. The environment that the equipment is being operated in is unchanged. No changes to equipment operating procedures will be implemented without the requisite technical review.

Because no new equipment is being introduced, and no equipment is being operated in a manner inconsistent with its design, the probability of equipment malfunction is not increased. The applicable procedures governing the operation of installed equipment will receive a review by technically qualified reviewers, and where appropriate, an interdisciplinary review will be required. These controls are sufficient to ensure that equipment is not operated in a manner or configuration which would increase the likelihood of failure.

The consequences of equipment malfunction are unchanged. This change addresses the control of the procedures implemented at CECo's station, and is unrelated to the consequences of equipment failure. Because no new failure modes are introduced, the plant will continue to be operated within acceptable limits, and the probability of equipment failure is not increased, the consequences of equipment failure will not change.

The plant will continue to be maintained within acceptable parameters by procedural controls which have been adequately reviewed and approved. Other procedures which could impact unit operation will be evaluated for the need for a cross-disciplinary review.

For the reasons described above, the possibility of a new or different type of accident is not directly or indirectly created.

3. Does the proposed change involve a significant reduction in a margin of safety?

The margin of safety is not affected by this change. The initial conditions utilized in the conduct of the accident analyses are unchanged. The methodologies used for the analyses are unchanged. The analysis results are not impacted. Sufficient controls are included in the proposed review methodology to ensure that the plant conditions and equipment availability required to support the integrity of the analyses, and hence the margin of safety will continue to be maintained.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: For Byron, the Byron Public Library, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481; for Dresden, the Morris Public Library, 604 Liberty Street, Morris, Illinois 60450; for LaSalle, the Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348; for Quad Cities, the Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021; for Zion, the Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Attorney to licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690.

NRC Project Director: Richard J. Barrett

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: September 27, 1991

Description of amendment request: The proposed amendment would change the Palisades Plant Technical Specifications (TS) by correcting an erroneous statement with regards to the amount of cooling water flow to the Containment Air Coolers (CACs). Specifically, the proposed amendment would change TS Section 5.2.3.a to indicate that three CACs [required to be operable per TS Section 3.4.1.a] with a total cooling water flow of 5580 gpm at an inlet temperature of 85°F will remove 230 million BTU per hour. TS Section 5.2.3.a currently identifies three CACs, each with a flow of 4875 gpm at an inlet temperature of 75°F for a heat removal rate of 229 million BTU per hour. The amendment request dated September 27, 1991 supersedes in its entirety the request dated October 20, 1986 as modified April 30, 1987. The previous request was published in the Federal Register on March 6, 1990 (55 FR 10530).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the possibility or consequences of an accident previously evaluated.

The proposed technical specification change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change is a correction to the information contained in the FSAR, section 6.3, Table 6-10. These corrections are based on the results of a study performed on the containment air coolers for the purpose of determining the performance characteristics. This change has no effect on containment pressure and temperature analysis (FSAR Section 14.18) since the heat removal rate assumed in the analysis is consistent with this technical specification change. Furthermore, this change has no effect on the LOCA analysis (FSAR Section 14.17) since the assumptions made regarding the containment air cooler heat removal rate in the LOCA analysis are still conservative.

2. Create the possibility of a new or different kind of accident from any previously evaluated.

The proposed technical specification change does not create the possibility of a new or different kind of accident from any previously evaluated. The proposed change is a correction to the information contained in the FSAR. These corrections are based on the results of a study performed on the containment air coolers for the purpose of determining the performance characteristics. The plant hardware was not changed and the plant operating conditions were not changed.

3. Involve a significant reduction in the margin of safety.

The margin of safety, as defined by the plant licensing basis is not significantly reduced by the proposed technical specification change. The proposed change is a correction to the information contained in the FSAR. These corrections are based on the results of a study performed on the containment air coolers for the purpose of determining the performance characteristics. Heat removal capacity from the containment by the containment air coolers has not been changed, thus there is no significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Judd L. Bacon, Esq., Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Project Director: L. B. Marsh.

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of amendment request: April 21, 1992, as supplemented May 19, 1992

Description of amendment request: The proposed amendments would change Technical Specifications (TS) 3/4.3.2, "Engineered Safety Features Actuation System Instrumentation" related to the 480 Volt load center

degraded voltage protection scheme. The proposed changes would eliminate reference to a specific type of relay used in the 480 Volt load center for both the non-safety injection and safety injection degraded voltage protection scheme. These changes would permit addition of two definite time relays for each safety-related load center, one each for Channel 1 and 2, to the existing two inverse time relays in the non-safety injection degraded voltage protection scheme. The four (two inverse and two definite time) protective relays for each load center would be interconnected and the channel trip configuration would be redesigned. A two-out-of-two logic channel trip configuration would be implemented such that the logic would trip if degraded voltage is detected by either the Channel 1 existing inverse time or the new definite time delay relay concurrently with either the Channel 2 inverse time or the definite time relay. The proposed changes do not include any additional relays or design logic changes to the 480 Volt load center safety injection degraded voltage protection scheme.

Specifically, the proposed changes would delete the phrases:

(1) "2 inverse time relays per load center" in Table 3.3-2 item 7c,

(2) "Inverse Time Relays" in Tables 3.3-3 and 4.3-2 item 7c,

(3) "2 instantaneous relays per load center" in Table 3.3-2 item 7b, and

(4) "Instantaneous Relays" in Tables 3.3-3 and 4.3-2 item 7b.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. [O]peration of the facility in accordance with the proposed amendment[s] would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change[s] [do] not revise any equipment requirements or any plant operating parameters required to provide undervoltage protection. The equipment configuration for the 480 Volt load center degraded voltage protection scheme coincident with safety injection will not change. The addition of definite time relays to the 480 Volt load center (non-safety injection) degraded voltage protection scheme, are better suited to maintaining the required settings, thereby enhancing the ability to detect a degraded voltage condition at the required setpoint. As such, the 480 Volt load center degraded voltage protection scheme will continue to assure the capability to detect degraded voltage on any of the load center buses and, in response to a significant degraded voltage condition, to initiate a signal to the sequencers to transfer power from off-site power to on-site power sources. Therefore, the proposed change[s] [do] not increase the probability or consequences of accidents previously analyzed.

2. [O]peration of the facility in accordance with the proposed amendment[s] would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change[s] [do] not change the operation, function or modes of plant or equipment operation. The ability of the 480 Volt load center degraded voltage protection scheme to detect degraded voltage on any of the load center buses and, in response to a significant degraded voltage condition, initiate a signal to the sequencers to transfer power from off-site power to on-site power sources is maintained. No new hazards are created or postulated which may cause an accident different from any accident previously analyzed. Also, the definite time delay relays are proven for reliable service in the industry and, as such, do not create any new failure modes in themselves or for the load center protected circuit. Therefore, the proposed change[s] [do] not create the possibility of a new or different kind of accident from any previously evaluated.

3. [O]peration of the facility in accordance with the proposed amendment[s] would not involve a significant reduction in a margin of safety.

The ability of the 480 Volt load center degraded voltage protection scheme to perform its detection and actuation functions is confirmed by existing surveillance requirements. Installation of the definite time delay relays will enhance the ability to detect a degraded voltage condition at the required setpoints and to actuate the sequencer trip logic in sufficient time to assure motor protection. Also, the associated bases are not affected and the existing degraded voltage setpoint values are not changed. Therefore, the proposed amendment[s] [do] not involve a reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Florida International University, University Park, Miami, Florida 33199

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzer, P.C., 1615 L Street, N.W., Washington, D.C. 20036

NRC Project Director: Herbert N. Berkow

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: December 3, 1991

Description of amendment request: The proposed amendment would modify the TMI-1 Technical Specifications in two areas. The first change would simplify the definition of "Heat Balance Calibration" by removing the formulae for a weighting factor between primary system and secondary system heat balance calculations as a function of reactor power. The second change would delete the requirement for a reactor shutdown in the event that one of the redundant narrow range reactor containment water level monitoring instruments should become inoperable.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Operation of the facility in accordance with the proposedamendment would not involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated. Deletion of the wording beyond the point of term definition contained in the current definition of Heat Balance Calibration is an administrative change. The safety analysis requires that the heat balance error be not more than 2% and that the steady state difference between the Heat Balance and Nuclear Instrumentation be such that the Heat would not be more than 2% greater than the Nuclear Instrumentation. Neither requirement is affected by this change.

Deletion of the action to shutdown the Reactor on loss of a narrow range Containment Water Level monitoring instrument is appropriate because the accident analysis considerations were based on the original design and purpose of the Reactor Building Sump. Failure of the Containment Water Level monitoring instrument does not lead to an accident and it is not required for accident mitigation.

2. Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or kind of accident from any previously evaluated. The amendment does not modify plant operation. It will continue to be operated in accordance with the limits of the existing accident analysis and margins of safety. The 2% maximum power level measurement error is unaffected by the change to the definition.

The Containment Water Level monitoring instrument has no interface with reactor systems.

3. Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety. The proposed amendment does not change any existing safety margins since the 2% maximum power level measurement error s unaffected by the revision of the Heat Balance definition and there is no safety margin defined for the containment sump level instruments since they do not perform any accident-mitigating functions at TMI-1.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three

standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: March 27, 1992

Description of amendment request: The amendment would revise the limiting conditions for operation and surveillance requirements for primary containment integrity, secondary containment integrity and other systems and equipment of Technical Specifications Section 3.7.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

(1) The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated because the requested revisions do not affect the FSAR safety analyses involving these systems.

Definitions

The revisions to Definition 15, "Primary Containment Integrity" and Definition 16, "Secondary Containment Integrity" agree with the corresponding definitions of the STS. These changes are administrative in nature in that they only clarify the requirements for containment integrity and the appropriate means of isolating penetrations. These changes do not affect the operation or function of the containment isolation valves/dampers or the primary and secondary containment isolation systems and, therefore, do not result in a significant increase in the probability or consequences of an accident previously evaluated.

Primary Containment Integrity

The revision to TS section 3.7.A, "Primary Containment Integrity", only adds a specific requirement to restore primary containment integrity within 1 hour or commence a plant shutdown. These actions are consistent with the actions specified in STS for primary containment integrity. No changes to the primary containment boundary or the requirements for primary containment integrity have been proposed. Therefore, this change does not result in a significant increase in the probability or consequences of an accident previously evaluated.

Primary Containment Power Operated Isolation Valves

The revisions to TS section 3.7.B, "Primary Containment Power Operated Isolation Valves" are editorial in nature in that the wording has only been changed to be consistent with the STS requirements for primary containment isolation valves. These changes do not affect the function of the valves, the requirements to isolate a penetration with an inoperable containment isolation valve or the actual methods of isolation. Penetrations are still required to be isolated within 4 hours in a manner that cannot be adversely affected by a single active failure. Therefore, these changes do not result in a significant increase in the probability or consequences of an accident previously evaluated.

Drywell Average Air Temperature

The addition of limits, actions, and surveillance requirements for drywell average air temperature are intended to ensure that the initial assumptions in the DAEC Primary Containment Response Analysis to a DBA remain valid. The temperature limit (135F) corresponds to the initial drywell average temperature assumed for this analysis in the UFSAR. The specified limits, actions and surveillance requirements are consistent with STS. The addition of this limit to the TS will not affect the actual operation or function of any equipment but will ensure that the containment analysis remains valid. Therefore, the addition of this limit will not result in a significant increase in the probability or consequences of an accident previously evaluated.

Pressure Suppression Chamber-Reactor Building Vacuum Breakers

The changes to TS section 3/4.7.D only provide additional detail and operability requirements for the pressure suppression chamber-reactor building vacuum breakers. These additional details are consistent with the requirements of STS. Specifying separate operability requirements for vacuum breakers inoperable for opening (but known to be closed) or open better reflects the dual functions of these valves (vacuum relief and containment isolation). The additional surveillance requirement will better ensure that the containment isolation function of these valves is maintained. The rewording of existing surveillances only clarifies current requirements. These changes do not affect the actual function, setpoints, or number of valves required to be operable and therefore do not result in a significant increase in the probability or consequences of an accident previously evaluated.

Drywell-Pressure Suppression Chamber Vacuum Breakers

The changes to TS section 3/4.7.E, only provide additional detail and operability requirements for the drywell-pressure suppression chamber vacuum breakers. These additional details are consistent with the requirements of STS. Specifying separate operability requirements for vacuum breakers inoperable for opening (but known to be closed) or open better reflects the dual functions of these valves. The additional requirement to verify that each vacuum breaker is closed at least once per week will better ensure that the isolation boundary between the drywell and torus is maintained. The elimination of the requirement to exercise all operable drywell-pressure suppression chamber vacuum breakers upon determination that a vacuum breaker is inoperable for opening will not affect the reliability of these vacuum breakers. The only valid reason to exercise the operable vacuum breakers is if a common mode failure is suspected. We have reviewed the maintenance history of these valves and have not identified any instances of common mode failures. Conditional testing of these vacuum breakers is not required by the STS. Therefore, these changes will not result in a significant increase in the probability or consequences of an accident previously evaluated.

Main Steam Isolation Valve Leakage Control System (MSIV-LCS)

The change to TS Section 3/4.7.F, "MSIV-LCS", deletes the unnecessary and potentially non-conservative conditional surveillance testing of the redundant MSIV-LCS subsystems. Although the proposed change will reduce the amount of testing of the MSIV-LCS, reliability of these systems would not be decreased and the necessary assurance that the alternate systems/subsystems/components will operate when needed is provided by the ASME Section XI IST Program.

The possibility of human error will decrease with reduced testing. Human error such as misalignment of valves after the system is returned to its normal configuration following testing and the misdirection of the operators attention from monitoring and directing plant operations is less likely to occur if this testing is eliminated. Additionally, reducing the scope and frequency of surveillance testing will decrease the probability of equipment failure (due to testing) which could require plant shutdown. Therefore, this change will not increase the probability of occurrence or consequences of an accident previously evaluated.

Suppression Pool Level and Temperature

The changes to TS section 3/4.7.F, "Suppression Pool Level and Temperature", are intended to clarify these requirements and make them more consistent with STS. The revision to the applicability statement which deletes the requirement for suppression pool level and temperature to be within the specified limits during work which has the potential to drain the vessel is in accordance with STS. Suppression pool level and temperature limits ensure that the suppression pool has the capability of acting as a heat sink for design basis events but are not appropriate or applicable during the refueling or cold shutdown conditions. No changes have been made to the actual suppression pool temperature or level limits and therefore, the assumptions made in the accident and transient analyses remain valid. These limits are consistent with STS. The revisions to the surveillance requirements are also intended to improve clarity and consistency with STS. The deletion of the requirement to monitor suppression pool water temperature every 5 minutes during relief valve operation is appropriate in that

plant operating and emergency operating procedures already specify what actions are to be taken when suppression pool average water temperature increases above 95o F including initiation of suppression pool cooling. Monitoring pool temperature every 5 minutes during these events is not necessary and is redundant to other actions. Therefore, these changes will not significantly increase the probability of occurrence of the consequences of an accident previously evaluated.

Containment Atmosphere Dilution

The revisions to the applicability of TS section 3.7.H, "Containment Atmosphere Dilution", requiring the containment atmosphere dilution system to be operable only when the reactor is in power operation and the primary containment is required to be inerted will not significantly increase the probability or consequences of an accident previously evaluated because the CAD system can only function when the containment is inerted. The function of the CAD system is to inject nitrogen into the containment after a LOCA and ensure the containment remains inerted. Drywell inspections performed after plant startup and prior to plant shutdown require that the primary containment be de-inerted for personnel access. Therefore, CAD system operability is not required during these inspections. No changes to the actual function or purpose of the CAD system are proposed.

Oxygen Concentration

The changes to TS section 3/4.7.I, "Oxygen Concentration" are administrative in that they only clarify the requirement that both the suppression chamber and the drywell must have oxygen concentrations of less than 4% by volume. The revisions to the surveillance requirements are consistent with STS. Decreasing the frequency of verification of oxygen concentration from twice per week to once per week is in accordance with STS and reflects the fact that during power operation, the containment is inerted and slightly pressurized such that air (oxygen) cannot leak into the containment. Therefore, these changes will not significantly increase the probability or consequences of an accident previously evaluated.

Secondary Containment

The deletion of the requirement to operate the SGTS immediately after a secondary containment violation is identified will not affect the reliability of the secondary containment in that containment integrity is normally fully restored immediately after a violation is identified. The testing of the SGTS involves insertion of a Group III containment isolation signal and is only appropriate if the restoration of secondary containment involves a temporary or new secondary containment boundary. These modifications to a secondary containment boundary, however, would require that the SGTS be operated as part of post modification testing. Deleting the requirement for the SGTS to be operated after minor secondary containment violations will reduce the possibility of human error (such as misalignment of valves after the system is returned to its normal configuration) due to reduced testing. Operation of the SGTS after a secondary containment violation is not required by STS.

Revision of the definition of calm wind conditions will not affect the reliability or availability of the secondary containment or SGTS. An engineering evaluation on the effects of wind speed and direction on the ability of the SGTS to maintain 1/4" vacuum in secondary containment has been performed. The results indicate that while wind effects can be seen on individual instruments, there is minimal effect on the average instrument readings with wind speeds up to 15 mph. A discussion of this evaluation has been added to the Bases of TS section 3.7. Therefore, these changes will not significantly increase the probability or the consequences of an accident previously evaluated.

Secondary Containment Automatic Isolation Dampers

The addition of operability requirements, actions and surveillance requirements for secondary containment isolation dampers better ensures the integrity and isolation capability of the secondary containment. The new specifications are consistent with the requirements of the STS. The actual function or operation of the secondary containment isolation valves/dampers will not be affected. The appropriate valves/dampers will be incorporated in plant procedures that are subject to the change control provisions of TS. Therefore, these changes will not increase the probability of occurrence or consequences of an accident previously evaluated in the TS.

Standby Gas Treatment System

The change to the output requirements of the inlet heaters for each train of the SGTS from 11 kw to 22 kw better ensures that these heaters (and the SGTS) can perform their design function. The 22 kw output requirement ensures that the inlet air humidity does not exceed the 70% humidity specified in the UFSAR. This change does not affect the actual operation of the heaters or the SGTS.

The requirement to demonstrate the HEPA filter uniform air distribution after HEPA filter replacement or after structural maintenance on the filter system housing (rather than annually) will not decrease the reliability of the SGTS. The air flow test will be performed after work or modifications which have the ability to disrupt the system geometry or result in potential flow blockage.

Revising the shutdown LCO requirement in the various specifications from requiring the plant to be in Cold Shutdown in 24 hours to requiring Hot Shutdown in 12 hours and Cold Shutdown (or other condition not requiring equipment operability) in the following 24 hours is consistent with STS and the shutdown requirements in TS section 3.5. This new requirement will allow the reactor to be shutdown in a more controlled manner and will not result in a significant increase in the probability or consequences of an accident previously evaluated.

The revisions to the Bases are administrative in that they only reflect the changes to the individual specifications described previously in this section or correct minor discrepancies. All changes are consistent with the applicable specifications.

(2) The proposed amendment will not increase the possibility of a new or different kind of accident from any accident previously evaluated for the following reasons.

As described in the above response to question 1, none of the proposed changes alters the design of the plant or equipment or the plant's transient response. The changes to the definitions and limiting conditions for operation applicable to TS section 3.7 are consistent with STS and better ensure that equipment assumed to be operable in our accident analysis will be operable upon demand. The addition of limiting conditions for operation for drywell average temperature and secondary containment isolation valves will better ensure that the assumptions in our accident analysis remain valid.

The changes to the surveillance requirements are consistent with the STS. Those systems required to mitigate accidents evaluated in the UFSAR will still be operable and available.

The reduction in conditional surveillance testing of certain systems and equipment will reduce the probability of equipment failure as a result of excessive testing or due to human error.

(3) The proposed amendment will not involve a significant reduction in a margin of safety for the following reasons.

The revisions to the limiting conditions for operation in Chapter 3.7 of the TS will not invalidate the original licensing basis assumptions and will not invalidate any assumptions or input parameters for any DAEC event analysis. These changes provide more specific guidance only and are in accordance with the STS. Extending the time period within which the DAEC must achieve Cold Shutdown conditions will permit increased operator attention and minimal distractions for operators during shutdown, thus minimizing the risks of unexpected operational transients.

Additional surveillance testing for certain instrumentation and systems will provide additional assurance that these systems will be available when needed.

Elimination of unnecessary or conditional surveillance testing will not reduce the minimum necessary equipment operability requirements or equipment reliability. Elimination of the redundant testing will reduce equipment failure due to excessive testing or human error.

In summary, the proposed administrative changes do not change the probability or consequences of an accident previously evaluated, do not create the possibility of a new or different kind of accident and do not involve a reduction in the margin of safety.

Therefore, the proposed license amendment is judged to involve no significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on thisreview, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, S.E., Cedar Rapids, Iowa 52401.

Attorney for licensee: Jack Newman, Esquire, Kathleen H. Shea, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036.

NRC Project Director: John N. Hannon.

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: April 22, 1992

Description of amendment request: The amendment would revise the Technical Specifications by incorporating the requirements for additional Reactor Water Cleanup (RWCU) system leak detection instrumentation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

(1) The proposed change will not increase the probability or consequences of an accident previously evaluated. The operation of the recently installed high ambient temperature monitoring instrumentation is identical to the existing instrumentation. Consequently, no new types of failures are introduced which would affect the probability of occurrence of any previously evaluated accident.

Regarding the consequences of previously evaluated accidents, the proposed change and the failure mechanisms of concern are bounded by the existing analysis for the worst case accident. Therefore, the consequences of previously evaluated accidents are not increased.

(2) The proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated. The performance of the existing leak detection instrumentation will not be affected by the proposed change. The additional high ambient temperature monitoring instrumenation will operate in an identical manner as the existing instrumentation. No new or different types of failures are created. Therefore, no new or different types of accidents will be created by the proposed change.

(3) The proposed change will not involve a significant reduction in the margin of safety.

The proposed change will add new ambient temperature monitoring and isolation capabilities to the existing instrumentation. Since the proposed change improves the detection and isolation capabilities for a postulated leak in the RWCU system, the margin of safety is not reduced.

The NRC staff has reviewed the licensee's analysis and, based on thisreview, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, S.E., Cedar Rapids, Iowa 52401.

Attorney for licensee: Jack Newman, Esquire, Kathleen H. Shea, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036.

NRC Project Director: John N. Hannon.

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: October 7, 1991

Description of amendment request: The requested change adds operational and surveillance requirements for the primary containment hydrogen concentration analyzer in accordance with the guidance of NRC Generic Letter No. 83-36.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The enclosed Technical Specification change is judged to involve no significant hazards based on the following:

1. Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

The addition of operational and surveillance requirements for post-accident primary containment hydrogen analyzers into CNS Technical Specifications will not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change will not affect any material feature or operational mode of the plant that could increase the probability of a design basis loss of coolant accident. The proposed change further ensures the availability of the primary containment hydrogen concentration monitoring capability for operator use in responding to various potential accidents. Hence, the proposed change will not involve a significant increase in the consequences of an accident previously evaluated.

2. Does the proposed license amendment create the possibility for a new or different kind of accident from any accident previously evaluated?

The addition of operational and surveillance requirements for the post-accident primary containment hydrogen analyzer into CNS Technical Specifications incorporates additional restrictions and requirements upon plant operation, and will not result in any new plant configuration or modes of plant operation. Thus, this change will not create the possibility for a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

The proposed changes to add operational and surveillance requirements for the post-accident hydrogen concentration analyzers into CNS Technical Specifications follow the guidance provided by NRC Generic Letter 83-36. No existing operating limits or setpoints are affected by this change. The proposed amendment will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305

Attorney for licensee: Mr. G.D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68602-0499

NRC Project Director: John T. Larkins

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: February 25, 1992

Description of amendment request: The changes consist of reformatting the CNS DC Power Systems Technical Specifications (TS). The limiting conditions for operation (LCO) actions statements have been revised, existing surveillance requirements have been reformatted, and additional surveillance requirements have been included to correspond with Standard Technical Specifications (STS). In addition, several changes were made to the Bases section concerning DC Power Systems to also maintain consistency with the STS.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

This proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change reformats the existing DC Power System limiting conditions for operation and accompanying surveillance requirements into a format consistent with the Standard Technical Specifications, which is in accordance with applicable NRC guidance.

The CNS Technical Specifications, like the Standard Technical

Specifications, currently provide a set of surveillance acceptance criteria associated with the station DC power sources. These

criteria vary according to the appropriate surveillance interval, i.e., weekly, quarterly, or during refueling. However, the Standard Technical Specifications identify discrete actions associated with each surveillance requirement which are commensurate with the significance of surveillance results, and which provide an explicit means for determining DC Power System operability. In contrast, the CNS Technical Specifications provide only the action statement associated with the corresponding limiting condition for operation for battery inoperability, and while clearly defining surveillance test acceptance criteria, do not clearly define the criteria for battery operability as with the STS. This proposed change will reformat the DC Power System technical specifications to conform to the Standard Technical Specifications style which will assist the licensee in making accurate operability determinations and follow appropriate actions. Therefore, these format changes do not constitute a significant increase in the probability or consequences of an accident previously evaluated.

In addition to improving DC Power System operability determinations, the change to the Standard Technical Specifications format will reduce the allowable reactor operation time with an inoperable battery to correspond with applicable NRC guidance. Currently, the CNS Technical Specifications allow continued reactor operation with an inoperable station battery for a period of ten days. The Standard Technical Specifications, in accordance with NRC Regulatory Guide 1.93, "Availability of Electric Power Sources," allow reactor operation to continue while attempts are made to restore operability of the battery for a period of two hours after which the reactor must be in Hot Shutdown within the next 12 hours if battery operability cannot be restored. Therefore, this change will significantly reduce the allowable reactor operation time with an inoperable battery; accordingly, this change does not represent a significant increase in the probability of previously evaluated accidents.

This proposed change also adds additional DC Power System surveillance requirements, not currently in the CNS Technical Specifications, in accordance with the guidance provided in the Standard Technical Specifications. These new surveillance requirements provide further assurance of battery operability and clarify operability determinations, and accordingly do not involve a significant increase in the probability or consequences of an accident previously evaluated.

This proposed change lowers the minimum float voltage for the pilot cell and other connected cells from 2.15 to 2.13 volts.

This value is consistent with the vendor (C & D) recommendations for the acceptable float voltage for the type of batteries installed (lead calcium) at CNS for the category A and B limits as defined in the STS and the attached Table 3.9.1. In no way does the reduction of this new float voltage value affect the capability of the DC power system to perform its intended safety function. The vendor has indicated and the District has verified that a voltage of 2.13 volts for each connected cell will ensure the battery's capability to perform its design function.

These category A and B values provide the first level of surveillance and resulting evaluation. The category B allowable value of 2.10 volts for a connected cell ensures the capability of the remaining battery cells to perform their design function. The battery vendor has indicated, and District engineering has verified that the battery is capable of performing its design function with a cell value much lower than the category B allowable value, therefore, reduction of the category A and B float voltage from 2.15 volts to 2.13 volts and the generation of a category B absolute allowable value of 2.10 volts and their attendant corrective actions does not constitute a significant increase in the probability or consequences of an accident previously evaluated.

Based on the above discussions, the changes proposed in this amendment request do not represent a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility for a new or different kind of accident from any accident previously evaluated?

This proposed change will revise the LCO action statements and the surveillance requirements for the CNS DC Power System to conform to the Standard Technical Specifications style which will assist and improve the ability of the licensee to make accurate operability determinations and follow appropriate actions concerning the DC power system. This proposed change will not involve any plant design change, affect any plant design criteria, or change the operation or the function of the DC power system as described in the USAR. This proposed change also does not allow any new mode of plant operation.

Therefore, this proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change create a significant reduction in the margin of safety?

This proposed change does not change existing facility equipment or represent any new mode of plant operation. This proposed change incorporates additional surveillance requirements and reformats the existing surveillance requirements of the DC power system, making them more stringent than previously required. The additional surveillance requirements and new format style is consistent with the existing requirements and use NRC endorsed criteria for DC power systems. Additionally, this proposed change will not reduce the capability of the 125 volt and 250 volt battery systems to perform their intended function, therefore maintaining the margin of safety. The remaining changes consist of reformatting the DC Power System technical specifications to conform to the Standard Technical Specifications style which will assist the District in making accurate operability determinations and follow appropriate actions. Based on this discussion, this proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305

Attorney for licensee: Mr. G. D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68602-0499

NRC Project Director: John T. Larkins

Northern States Power Company, Docket Nos. 50-282 and 50-36, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Goodhue County, Minnesota

Date of amendment request: May 7, 1992

Description of amendment request: The proposed amendment application requests the relocation of the Prairie Island Technical Specification (TS) Containment Penetration List into plant procedures in accordance with the guidance provided in Generic Letter 91-08, "Removal of Component Lists From Technical Specifications." The Containment Penetration List in TS Section 4.4 would be relocated into plant procedures that are subject to the change control provisions for plant procedures specified in the Administrative Controls Section of the TS. The removal of the Containment Penetration List from TS would permit administrative control of changes to this list without processing a license amendment. Any change to the Containment Penetration List once it is incorporated in the plant procedures will be subject to the requirements specified in the Administrative Controls Section of the TS on changes to plant procedures. The change control provisions of the TS provide an adequate means to control changes to the Containment Penetration List. The removal of the Containment Penetration List from the Prairie Island TS per the guidance described in Generic Letter 91-08 provides an acceptable alternative to identifying each containment penetration by its plant identification number in the Technical Specification Containment Penetration List. The amendment would not alter the operability and testing requirements of those components to which it applies.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards

consideration, which is presented below:

The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

Relocation of the Containment Penetration List to plant procedures is consistent with the guidance in Generic Letter 91-08, it does not alter existing Technical Specification [TS] requirements or those components to which they apply. Any change to the Containment Penetration List, once it is incorporated in the plant procedures, will be subject to the requirements specified in the Administrative Controls Section of the [TS] on changes to plant procedures. The procedure change control provisions of the [TS] will provide an adequate means to control changes to the Containment Penetration List.

Therefore, because the removal of the Containment Penetration List from the Prairie Island [TS] does not alter existing [TS] requirements and because changes to the Containment Penetration List will be controlled per the Administrative Controls Section of the [TS], the proposed changes will not significantly affect the probability or consequences of an accident previously evaluated.

The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously analyzed.

There are no new failure modes or mechanisms associated with the proposed changes. The proposed changes do not involve any modification in operational limits. Only the list of containment penetrations is being removed from [TS].

The proposed changes are consistent with the NRC Staff guidance provided by Generic Letter 91-08, "Removal of Component Lists From [TS]". The NRC Staff concluded in Generic Letter 90-09, that the removal of component lists from the [TS] per the guidance described in Generic Letter 91-08 provides an acceptable alternative to identifying every component by its plant identification number in the [TS] because the removal of the lists does not alter existing [TS] requirements or those components to which they apply.

Since the proposed changes conform with the guidance in Generic Letter 91-08, and because the removal of the Containment Penetration List from the Prairie Island [TS] does not alter existing [TS] requirements or those components to which they apply, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated, and the accident analyses presented in the Updated Safety Analysis Report will remain bounding.

The proposed amendment will not involve a significant reduction in the margin of safety.

Relocation of the Containment Penetration List to plant procedures is consistent with the guidance in Generic Letter 91-08, it does not alter existing [TS] requirements or those components to which they apply. Any change to the Containment Penetration List, once it is incorporated in the plant procedures, will be subject to the requirements specified in the Administrative Controls Section of the [TS] on changes to plant procedures. The procedure change control provisions of the [TS] will provide an adequate means to control changes to the Containment Penetration List.

Therefore, because the removal of the Containment Penetration List from the Prairie Island [TS] does not alter existing [TS] requirements and because changes to the Containment Penetration List will be controlled per the Administrative Controls Section of the [TS], the proposed changes will not result in any reduction in the plant's margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW, Washington, DC 20037.

NRC Project Director: L. B. Marsh.

Pennsylvania Power and Light Company, Docket No. 50-387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of amendment request: May 21, 1992

Description of amendment request: This amendment would make changes to the Unit 1 Technical Specifications to correct the flow dependent MCPR Operating Limits to be consistent with the licensee's NRC-approved methodology.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. This proposal does not involve a significant increase in the probability or consequences of an accident previously evaluated.

This change corrects a single calculational error to ensure that the Technical Specification flow dependent MCPR Operating Limits are based on correct implementation of PP&L's NRC-approved licensing methods. This action will ensure SSES U1C7 operation is within its design basis, and preserves the validity of the U1C7 reload safety analysis. Therefore, it will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. This proposal does not create the possibility of a new or different type of accident from any accident previously addressed. The proposed change corrects an error in a single calculation supporting development of MCPR Operating limits for a specific transient. This action therefore ensures that proper operating limits are in place for an event that has been previously addressed. It does not create the possibility of a new or different type of accident from any accident previously addressed.

3. This change does not involve a significant reduction in a margin of safety.

Implementation of the proposed change will ensure that the safety margin resulting from the reload safety analysis will be preserved for U1C7 operation. Therefore, it does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, D.C. 20037

NRC Project Director: Charles L. Miller

Philadelphia Electric Company, Docket Nos. 50-352 and 50-353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of amendment request: May 8, 1991, and supplemented by letter dated May 15, 1992.

Description of amendment request: The amendments would change the technical specifications (Tss) to facilitate operation of Limerick Generating Station (LGS), Units 1 and 2, in a 24-month fuel cycle instead of the current 18-month fuel cycle. Specifically, the two changes would 1) revise the channel calibration frequency for the peak acceleration seismic monitoring recorder mounted on the reactor vessel head flange from 18 to 24 months and 2) change the frequency of surveillance testing of the main steam safety relief valves (SRVs) from 18 to 24 months.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The licensee has discussed each of the two changes separately, as presented below:

1. The proposed TS changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

Change 1

This proposed change involves a change in the channel calibration frequency for seismic instrument XR-VA-151 from 18 months to 24

months (i.e., a maximum of 30 months accounting for the allowable grace period). Seismic instrument XR-VA-151 is a passive device. This instrument does not interface with any other plant system or equipment, nor does this instrument provide on-line operational information to the plant operators. There is no accident previously evaluated which has as its initiator anything that is related to instrument XR-VA-151, its accuracy, or to the frequency of this instrument's surveillance testing. The proposed TS change to the surveillance testing interval for XR-VA-151 will not affect the ability of plant equipment important to safety to bring the plant to a safe shutdown condition, or mitigate the consequences of any accident. As a result, the proposed change will not impact on-site or off-site doses resulting from accident-related radiological releases. Therefore, the proposed change in the surveillance frequency of XR-VA-151 will not increase the probability or consequences of an accident.

Change 2

This proposed TS change involves a change in the frequency of surveillance testing of the main steam system SRVs from 18 months to 24 months (i.e., a maximum of 30 months accounting for the allowable grace period) for "50%" of the total of 14 SRVs, and from 40 months (i.e., accounting for two 18 month refueling cycles with one four month grace period) to 54 months (i.e., accounting for two 24 month refueling cycles with one six month grace period) for all 14 SRVs. There are no accidents that have as their initiators anything which would be related to the proposed change in frequency of the SRV surveillance testing. The proposed change will not change the design or function of any plant systems or equipment. An evaluation of LGS SRV set pressure surveillance data since initial plant operation, as well as industry data on Target Rock two-stage SRVs [reference to two Tables deleted from this notice], does not indicate a trend toward negative drift (i.e., decreasing set pressure). Therefore, the proposed change in frequency of surveillance testing of the SRVs will not impact the possibility of inadvertent opening of the SRVs.

As identified in [General Electric] GE report NEDE-30476, Target Rock two-stage SRVs experience an upward drift in set pressure due to corrosion induced bonding of the pilot disc and seat, and labyrinth seal induced friction due to insufficient clearances between the pilot rod and the pilot guide. An historical search of set pressure surveillance data [reference to two tables deleted from this notice] can lead to the conclusion that set pressure drift magnitude approaches a plateau (i.e., a constant value) early in the operating cycle, and therefore, the proposed extension in the surveillance testing interval will not have a significant effect on an SRV's ability to perform its self-actuated safety function.

Additionally, as documented in Section 3.9.3.4 of Supplement 3 to NUREG-0991, "Safety Evaluation Report Related to the Operation of Limerick Generating Station, Units 1 and 2," dated October 1984, the NRC concluded that LGS can be operated with no adverse effect on the health and safety of the public given the upward set pressure drift of the SRVs based on the following three items: 1) LGS has implemented all applicable supplements of General Electric Service Information Letter (SIL) No. 196 which incorporates the improved SRV maintenance and refurbishment recommendations specified in GE report NEDE-30476; 2) as stated in section 5.2 of the Final Safety Analysis Report (FSAR), LGS has installed considerably more SRV relieving capacity then required by the applicable edition of the [American Society of Mechanical Engineers] ASME Code; and 3) the TS required SRV set pressure testing frequency exceeds the current ASME Code Section XI requirements, i.e., at least 50% of the total of 14 SRVs are tested each refueling outage in accordance with TS versus 20% in accordance with ASME Code Section XI. None of these three bases will be affected by the proposed TS change. Therefore, there is no overall impact on the probability or the consequences of an accident previously evaluated.

2. The proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

Change 1

The proposed change involves a change in the frequency of surveillance testing of XR-VA-151. This instrument does not interface with any equipment which is important to safety. The proposed TS change will not alter the design or function of this instrument, or any other plant equipment, nor will the proposed change introduce any new operating configurations or failure modes. The data recorded by this instrument are not available to the plant operators during plant operation (i.e., during either normal or abnormal operation). Therefore, the proposed change will not create the possibility of an accident of a new or different type from any accident previously evaluated.

Change 2

The proposed change involves a change in the frequency of SRV testing. The proposed change will not alter the design or function of any plant systems or equipment. The proposed change will not introduce any new operating configurations, or any failure mechanism of a different type than already evaluated. Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed TS changes do not involve a significant reduction in a margin of safety.

Change 1

The proposed change involves a change in the frequency of surveillance testing of XR-VA-151. Since this instrument does not interface with any other plant system or equipment, the proposed change in the surveillance frequency of XR-CA-151 will not impact the safety margin of any system, structure, or component in the plant. Therefore, this proposed change will not reduce a margin of safety.

Change 2

The proposed change involves a change in the frequency of SRV testing. The NRC's original basis for acceptable operation of the plant with SRV set pressure drift as documented in Section 3.9.3.4 of Supplement 3 to NUREG-0991 is not altered by the proposed change to the TS surveillance frequency requirement for the SRVs. All applicable supplements to GE SIL No. 196 will continue to be implemented. The total SRV relieving capacity will not change. The TS required SRV set pressure testing frequency will continue to exceed the ASME Code Section XI/OM-1-1981 requirements, i.e., at least 50% of the total of 14 SRVs will be tested each refueling outage versus at least 20%. Therefore, the proposed change will not reduce a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Attorney for licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101

NRC Project Director: Charles L. Miller

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: May 21, 1992

Description of amendment request: The proposed amendment to the James A. FitzPatrick Technical Specifications (TS) requests changes to Table 4.2.1 entitled, "Minimum Test and Calibration Frequency for Primary Containment Isolation Systems (PCIS)" to reflect a plant modification which will deactivate the reactor vessel head spray portion of the Residual Heat Removal (RHR) system. This modification involves the elimination of the reactor vessel head spray function by removing and capping portions of the head spray piping and associated valves. The head spray is an optional capability and credit is not taken for it in the accident analysis.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Operation of the James A. FitzPatrick Nuclear Power Plant in accordance with this proposed amendment would not involve a significant hazards considerations, as defined in 10 CFR 50.92, since the proposed changes would not:

(1) involve a significant increase in the probability of an accident or consequence previously evaluated.

This change will not increase the possibility of an accident or malfunction of safety-related structures, systems or components as evaluated previously in the FSAR (Final Safety Analysis Report). There are no safety-related functions associated with the operation of head spray. Head spray is an optional capability and credit is not taken for it in the accident analysis.

(2) create the possibility of a new or different kind of accident from those previously evaluated.

The proposed amendment does not create the possibility of a new or different kind of accident from any previously evaluated because there are no new interfaces with safety-related equipment, systems or structures. No new systems have been introduced which by their failure or malfunction could create a new or different accident.

The change deletes the logic system functional test for the head spray containment isolation valves (CIVs) that will be removed as part of the plant modification. The Primary Containment Isolation System (PCIS) for all other CIVs will not be affected by this change. The logic functional test for other portions of PCIS will continue at the current frequency.

3) involve a significant reduction in the margin of safety as defined in the basis for Technical Specifications.

The change will not reduce the margin of safety as defined in the Technical Specification.

The head spray system is not described in the basis for any Technical Specification. This subsystem is not required to perform any safety-related functions. Head spray is an optional capability and credit is not taken for it in the accident analysis.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mr. Charles M. Pratt, 1633 Broadway, New York, New York 10019.

NRC Project Director: Robert A. Capra

Public Service Company of New Hampshire, Docket No. 50-443, Seabrook Station, Rockingham County, New Hampshire

Date of amendment request: May 5, 1992

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) to allow a relaxation in the pressurizer safety valve (PSV) and main steam safety valve (MSSV) setpoint tolerances to plus or minus 3 percent. New Hampshire Yankee (NHY) proposes to utilize the plus or minus 3 percent tolerance for the "as-found" acceptance criteria for additional valve testing required by the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code), Section XI, Article IWV-3513. NHY is also proposing to revise the BASES for Technical Specification 3/4.7.1.1 to specify the correct Edition of the ASME Code, Section III applicable to the MSSVs.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

New Hampshire Yankee is proposing to revise the Seabrook Station Technical Specifications to allow a relaxation in the Pressurizer Safety Valve (PSV) and Main Steam Safety Valve (MSSV) setpoint tolerances to [plus or minus] 3 [percent] for ASME Section XI testing acceptance criteria. The proposed Technical Specification changes also require that the PSV and MSSV setpoints be restored to within [plus or minus] 1 [percent] of their nominal setpoints following testing. New Hampshire Yankee is also proposing to revise the BASES for Technical Specification 3/4.7.1.1 to specify the correct Edition of the ASME Boiler and Pressure Vessel Code, Section III applicable to the MSSVs. Additionally, NHY is proposing to correct a typographical error in the BASES for Technical Specification 3/4.7.1.1. The BASES currently contain an incorrect reference to Technical Specification Table 3.7-2, whereas the correct reference is to Table 3.7-1.

The impact of the relaxed PSV and MSSV setpoint tolerance on the licensing basis analysis documented in the Seabrook Station Updated Final Safety Analysis Report (UFSAR), Chapter 15, has been reviewed by Yankee Atomic Electric Company (YAEC) and documented in topical report YAEC-1647 "Seabrook Station Code Safety Valve Setpoint Tolerance Relaxation." YAEC-1847 demonstrates that the licensing basis criteria are still met when the relaxed Code safety valve tolerance of [plus or minus] 3 [percent] is assumed. YAEC1847 demonstrates the following:

1. For events where Departure From Nucleate Boiling Ratio (DNBR) is a concern, there will be no reduction in the calculated minimum DNBR,

2. For events where overpressurization is a concern, the safety limits are not exceeded, and

3. For events where offsite doses are a concern, the safety limits are not exceeded, and

4. For LOCA events, the acceptance criteria for Emergency Core Cooling System performance are not exceeded.

(2) The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The overpressure protection function of the PSVs and MSSVs is not affected by the proposed relaxation of their setpoint tolerance. The nominal setpoint of the PSVs and the MSSVs will not be changed. New Hampshire Yankee proposes to utilize the [plus or minus] 3 [percent] tolerance for the "as-found" acceptance criteria for additional valve testing required by ASME Section XI, Article IWV-3513. The proposed Technical Specification revisions require that the PSV and MSSV setpoints be restored to within plus or minus 1 [percent] of their nominal setpoints following testing. The evaluation of the proposed relaxation of the PSV and MSSV setpoint tolerances documented in YAEC-1847 demonstrates that new or different kinds of accidents are not created by the proposed changes.

(3) The proposed changes do not result in a significant reduction in the margin of safety.

The Seabrook Station overpressure protection design incorporates three Code safety valves on the primary system pressurizer and a total of twenty Code safety valves on the four main steam lines (five per line) in the secondary system. The proposed Technical Specification changes involve a relaxation of the setpoint tolerance for the Code safety valves in the primary and secondary systems. The YAEC-1847 evaluation of the Code safety valve setpoint tolerance relaxation demonstrates that peak pressures in the primary and secondary systems during the limiting pressurization transient (Turbine Trip) will remain within the limits for Condition II events (Faults of Moderate Frequency). The limiting small break LOCA event which involves the opening of the MSSVs is evaluated in YAEC-1847 which predicts a small increase in the Peak Clad Temperature (PCT). The small break LOCA PCT increase is not significant as defined by 10CFR50.46 nor are the PCT limits of 10CFR50.46 exceeded. YAEC-1847 also demonstrates that the frequency of challenges to the Code safety valves will not increase nor will the reactor trip on high pressurizer pressure be impacted as a result of the lowered setpoint tolerance (- 3 percent). Additionally, YAEC-1847 demonstrates that the radiological consequences associated with a Steam Generator Tube Rupture (SGTR) event are only minimally increased and remain within the round-off error applied to the SGTR radiological consequences which were delineated in NHY's April 16, 1991 letter to the NRC.

The NRC staff has reviewed the licensee's analysis, and based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request

involves no significant hazards consideration.

Local Public Document Room location: Exeter Public Library, 47 Front Street, Exeter, New Hampshire, 03833.

Attorney for licensee: Thomas Dignan, Esquire, Ropes & Gray, One International Place, Boston, Massachusetts 02110-2624

NRC Acting Project Director: Victor Nerses

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: May 19, 1992

Description of amendment request: This license change request proposes to allow an exception to Technical Specification 4.0.4 for the Intermediate Range Monitors (IRMs) and Source Range Monitors (SRMs) when Operational Condition 2 or 3 is entered from Operational Condition 1. The circuitry of the SRMs and IRMs precludes functional testing in Operational Condition 1 because all rod block and scram functions are bypassed when the mode switch is in Run. The surveillance requirements for these instruments can only be completed after entry into Operational Conditions 2 or 3.

Additionally, the licensee is proposing to change a note on Table 1.2 to permit the mode switch to be placed in the refueling position to test the switch interlock functions and related instrumentation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

PSE&G has, pursuant to 10 CFR 50.92, reviewed the proposed amendment to determine whether our request involves a significant hazards consideration. We have determined that operation of the Hope Creek Generating Station, in accordance with the proposed changes:

1. Will not involve a significant increase in the probability or consequences of an accident previously evaluated.

During performance of plant shutdowns, operability of the subject instrumentation will be confirmed in a timely manner by surveillance testing in accordance with the time requirements of Specification 4.0.3.

Furthermore, the proposed change would permit the performance of routine plant shutdowns without the invocation of the action requirements associated with the SRM and IRM specifications which include the insertion of the rod blocks and half scrams and potential voluntary entry into Specification 3.0.3. This would consequently decrease the probability of unwarranted transients.

The proposed change to permit the reactor mode switch to be placed in the Refueling position while in operational condition 3 or 4 to conduct testing provides the operational flexibility to operate the plant in a more conservative manner than presently required by the subject specification.

2. Will not create the possibility of a new or different kind of accident from any accident previously evaluated.

Neither the operation nor the function of the SRMs, IRMs, reactor mode switch interlocks, or instrumentation associated with the reactor mode switch will be modified by the proposed change. Performance of confirmatory, routine surveillance testing will not create the possibility of a new or different event.

3. Will not involve a significant reduction in a margin of safety.

The proposed changes would permit the performance of routine plant shutdowns without requiring either: 1) the temporary modification of the subject instrumentation which would increase the likelihood of failure or inadvertent actuation, or 2) the invocation of the associated action statements which could increase the probability of unwarranted transients and could unnecessarily complicate plant operation.

The proposed change to permit the reactor mode switch to be placed in the Refueling position while in operational condition 3 or 4 to conduct testing provides an additional margin of safety in that the subject testing can be performed while the one-rod-out interlock is enabled.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

Attorney for licensee: M. J. Wetterhahn, Esquire, Winston and Strawn, 1400 L Street, NW., Washington, DC 20005-3502

NRC Project Director: Charles L. Miller

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: May 6, 1992

Description of amendment request: The amendment request modifies Technical Specification (TS) Section 3/4.3.1 Reactor Trip System Instrumentation, Limiting Conditions for Operation, Action Requirements, and Surveillance Requirements, including Associated Tables. The proposed changes contain administrative changes, provide consistency between Salem, Units 1 and 2 and ensure technical accuracy.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. [do not] involve a significant increase in the probability or consequences of an accident previously analyzed.

A. Renumbering of line items within a specification is an administrative change, therefore, it would not increase the probability or consequences of a previously analyzed accident.

B1. The current Salem Accident Analysis does not support three loop operation. Three loop operation is not permitted at Salem. Removal of references to three and four loop operation from the functional units for Overtemperature [delta] T and Overpower [delta] T does not represent modifications to plant equipment or operation. Therefore, these changes would not increase the probability or consequences of a previously analyzed accident.

B2. Changing the referenced Actions from Overtemperature [delta] T and Overpower [delta] T does not change the required actions. Actions 2 and 6 are identical except that Action 2 contains an additional subpart "c" that only applies to Power Range Nuclear Instrumentation. The proposed changes do not represent modifications to plant equipment or operation. Therefore, these changes would not increase the probability or consequences of a previously analyzed accident.

B3. Changing the Undervoltage - Reactor Coolant Pumps and Underfrequency - Reactor Coolant Pumps MINIMUM CHANNELS OPERABLE requirement from 4 to 3 is necessary to apply Action 6 to these Functional Units. Action 6 allows for continued operation provided a failed channel is placed in the tripped condition within a given time period, and the Minimum Channels Operable requirement is satisfied. Continued operation is not possible unless the Minimum Channels Operable requirement is at least one less than the Total Number of Channels. The proposed changes do not represent modifications to plant equipment or operation. Therefore, these changes would not increase the probability or consequences of a previously analyzed accident.

B4. Adding designators for Functional Units 18a and 18b is for identification only and is administrative. Therefore, this change would not increase the probability or consequences of a previously analyzed accident.

B5. Changing the Turbine Trip Stop Valve Closure Minimum Channels Operable requirement from 4 to 3 is necessary to apply Action 7 to these Functional Units. Action 7 allows for continued operation provided a failed channel is placed in the tripped condition within a given time period, and the Minimum Channels Operable requirement is satisfied. Continued operation is not possible unless the Minimum Channels Operable

requirement is at least one less than the Total Number of Channels. The proposed changes do not represent modifications to plant equipment or operation. Therefore, these changes would not increase the probability or consequences of a previously analyzed accident.

B6. Deleting the notation is an administrative change, because it is not referenced in this table. Therefore, this change would not increase the probability or consequences of a previously analyzed accident.

B7. Adding the word POWER after RATED THERMAL corrects a typographical error and is an administrative change. Therefore, these changes would not increase the probability or consequences of a previously analyzed accident.

B8. Relocating part of an action to a different page is an administrative change. Therefore, this change would not increase the probability or consequences of a previously analyzed accident.

B9. Adding a title to the action is an administrative change to correct a typographical error. Therefore, these changes would not increase the probability or consequences of a previously analyzed accident.

B10. Deleting the words that describe the P-6 interlock is an administrative change, and therefore, these changes would not increase the probability or consequences of a previously analyzed accident.

B11. Adding Action 8 and designating as Not Used is an administrative change, and therefore, this change would not increase the probability or consequences of a previously analyzed accident.

B12. Deleting the current Action 9 and changing to Not Used is an administrative change. Action 9 is not referenced in the table. Therefore, these changes would not increase the probability or consequences of a previously analyzed accident.

B13. Changing Deleted to Not Used is an administrative change to provide a more clear description. Therefore, these changes would not increase the probability or consequences of a previously analyzed accident.

C1. Adding Functional Unit 21, Reactor Trip Breakers, to Table 3.3-2 is an administrative change to ensure all functional units are addressed on each table. Therefore, these changes would not increase the probability or consequences of a previously analyzed accident.

C2. Adding Functional Unit 22, Automatic Trip Logic, to Table 3.3-2 is an administrative change to ensure all functional units are addressed on each table. Therefore, these changes would not increase the probability or consequences of a previously analyzed accident.

2. [do not] create the possibility of a new or different kind of accident.

As stated above, the proposed changes are either administrative, or do not represent modifications to plant equipment or operation. Therefore, there can be no impact on plant response to the point where a different accident is created.

3. [do not] involve a significant reduction in a margin of safety.

As stated above, the proposed changes are either administrative, or do not represent modifications to plant equipment or operation. Therefore, there can be no reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Salem Free Public library, 112 West Broadway, Salem, New Jersey 08079

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, D.C., 20005-3502

NRC Project Director: Charles L. Miller

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of amendment request: April 15, 1992

Description of amendment request: The proposed change would revise Engineered Safety Features response times to account for the sequential stroking of the outlet isolation valves on the refueling water storage tank and the volume control tank.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

South Carolina Electric & Gas Company (SCE&G or the licensee) has reviewed the proposed changes and determined that the proposed amendment does not involve a significant hazards consideration since the proposed changes will not:

(1) Involve a significant increase in the probability or consequences of any accident previously evaluated. The proposed change increases the response time of certain ESF functions to account for the sequential stroking of the outlet isolation valves for the VCT [volume control tank] and RWST [refueling water storage tank]. The increase in response time is supported by the current accident analyses. This change is needed to ensure that assumptions utilized in the Steam Line Break accident analysis are properly addressed in the Technical Specifications.

(2) Create the possibility of a new or different kind of accident from any previously evaluated. This Technical Specification change is requested to ensure that the Technical Specification requirements support the assumptions utilized in the present safety analyses. The change does not introduce the potential for new or different accidents from those currently analyzed.

(3) Involve a significant reduction in a margin of safety. The proposed change is requested to incorporate into the Technical Specifications the response times associated with SI signals which support the plant's current safety analyses and margins of safety. Therefore, the change will not reduce the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180

Attorney for licensee: Randolph R. Mahan, South Carolina Electric & Gas Company, P.O. Box 764, Columbia, South Carolina 29218

NRC Project Director: Elinor G. Adensam

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment requests: April 7, 1992

Description of amendment requests: The licensee proposed to revise Technical Specifications (TS) Tables 3.3-3, 3.3-4, 3.3-5, and 4.3-2, "Engineered Safety Features Actuation System (ESFAS) Instrumentation." The proposed TS change will clarify that a manual Safety Injection Actuation Signal (SIAS) does not actuate a Containment Cooling Actuation Signal (CCAS). The licensee characterizes this change as an editorial change to make the TS consistent with plant design.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No

Manual SIAS was never intended to initiate CCAS. This is an editorial change correcting a previous mistake in the TS. The error does not appear in any design documents or drawings, or any plant procedures. Deleting the requirements related to manual SIAS actuation of CCAS makes the TS consistent with plant design and procedures. There is no change in plant design, operation, or configuration. Therefore,

there is no significant increase in the probability or consequences of previously evaluated accidents.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different type of accident from any accident previously evaluated?

Response: No

Manual SIAS was never intended to initiate CCAS. This is an editorial change correcting a previous mistake in the TS. The error does not appear in any design documents or drawings, or any plant procedures. Deleting the requirements related to manual SIAS actuation of CCAS makes the TS consistent with plant design and procedures. There is no change in plant design, operation, or configuration. This change does not create the possibility of a new or different type of accident from those previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No

Manual SIAS was never intended to initiate CCAS. This is an editorial change correcting a previous mistake in the TS. The error does not appear in any design documents or drawings, or any plant procedures. Deleting the requirements related to manual SIAS actuation of CCAS makes the TS consistent with plant design and procedures. There is no change in plant design, operation, or configuration. There is no reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713

Attorney for licensee: James A. Beoletto, Esquire, Southern California Edison Company, P. O. Box 800, Rosemead, California 91770

NRC Project Director: Theodore R. Quay

Yankee Atomic Electric Company, Docket No. 50-029, Yankee Nuclear Power Station (YPNPS), Franklin County, Massachusetts

Date of amendment request: May 15, 1992

Description of amendment request: The proposed amendment would redefine the shift staffing requirements in the Technical Specifications in order to reflect the shutdown and defueled status of the facility.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

YNPS is now permanently shutdown and defueled. YNPS has ceased any activities for which 10 CFR Part 50.54 would require NRC Licensed Operators. Therefore, the appropriate training basis for YNPS requires an NRC approved Certified Fuel Handler (CFH) Training Program.

Maintenance of the facility has also been significantly simplified with the reduction in the numbers of systems, structures, and components required for a permanently shutdown and defueled condition. In addition, the reaction time required of operators to restore decay heat removal to the spent fuel pit is very long, measured in days. Therefore, the minimum shift crew composition required to safely maintain the facility has been reduced by one.

With the CFH Training Program reviewed and approved, the changes described above will more clearly reflect the facility staffing requirements and improve Technical Specification clarity and readability. Except for the reduction by one individual of the minimum shift crew composition, the remaining changes are administrative in nature. As such, these changes will not:

1. Involve a significant increase in the probability or consequence of an accident previously evaluated. This change reflects staffing requirements appropriate to the permanently shutdown and defueled status of YNPS. Specifically, the changes clarify the training, titles, minimum staff requirements for fuel handling, normal shift crew composition, and minimum staff requirements for the control room.

Without fuel in the reactor, the probability and consequences of most design basis accidents are reduced to zero. Only a fuel handling accident remains possible. However, this change does not affect the Limiting Conditions for Operations associated with handling fuel and the staffing requirements are clarified for title changes. The new minimum shift crew composition is commensurate with the reduction in operating systems and components and is adequate to safely maintain the facility. Therefore, there is no increase in the probability or consequences of an accident previously evaluated in the SAR as a result of this change.

2. Create the possibility of a new or different accident from any previously evaluated. The changes described in this proposal do not modify any plant systems or components and will not create the possibility of a new or different accident from any previously evaluated.

3. Involve a significant reduction in a margin of safety. The reduction of the minimum shift crew size is commensurate with the significant increase in the margin of safety associated with the cessation of power operations. The administrative changes are consistent with the existing personnel qualifications and staffing practices and will not involve a significant reduction in a margin of safety.

Based on the above considerations, it is concluded that there is reasonable assurance that the maintenance of Yankee Nuclear Power Station, consistent with the proposed change, will not endanger the health and safety of the public.

This proposed change has been reviewed by the Nuclear Safety Audit and Review Committee.

The NRC staff has reviewed the licensee's analysis, and based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301

Attorney for licensee: Thomas Dignan, Esquire, Ropes and Gray, One International Place, Boston, Massachusetts 02110-2624

NRC Project Director: Seymour H. Weiss

Previously Published Notices Of Consideration Of Issuance Of Amendments To Operating Licenses And Proposed No Significant Hazards Consideration Determination and Opportunity For Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration. For details, see the individual notice in the Federal Register on the day and page cited. This notice does not extend the notice period of the original notice.

Tennessee Valley Authority Docket No. 50-260, Browns Ferry Nuclear Plant, Unit 2, Limestone County, Alabama

Date of amendment request: May 13, 1992 (TS 317T)

Description of amendment request: The proposed amendment would revise Technical Specifications Table 3.2.C and 3.5.K/4.5.K to allow continued power operation when the Rod Block Monitor (RBM) is inoperable and the Minimum Critical Power Ratio (MCPR) is within specified limits. Technical Specification Bases section 3.2 would also be revised to describe the basis for the proposed change. The proposed amendment is a temporary change which will expire at the end of the current Browns Ferry Unit 2 fuel cycle.

Date of publication of individual notice in Federal Register: May 22, 1992 (57 FR 21834)

Expiration date of individual notice: By June 22, 1992

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

Notice Of Issuance Of Amendment To Facility Operating License

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, D.C., and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Baltimore Gas and Electric Company, Docket No. 50-317, Calvert Cliffs Nuclear Power Plant, Unit No. 1, Calvert County, Maryland

Date of application for amendment: December 10, 1991, and supplemented on April 17, 1992.

Brief description of amendment: The amendment revises the Unit 1 Technical Specifications to support Cycle 11 operation.

Date of issuance: May 26, 1992

Effective date: May 26, 1992

Amendment No.: 170

Facility Operating License No. DPR-53: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 22, 1992 (57 FR 2587) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 26, 1992 No significant hazards consideration comments received: No

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland 20678.

Baltimore Gas and Electric Company, Docket Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: March 28, as supplemented April 16, 1991, and February 28, 1992

Brief description of amendments: The amendments revise the Technical Specifications, which are contained in Appendices "A" and "B" to the licenses. The revisions include editorial changes, administrative corrections, and the deletion of footnotes. The amendments also include the replacement of all the Technical Specifications pages due to the elimination of double sided pages, adjusted line spacing (repagination), and the adjustment of text formats.

Date of issuance: May 19, 1992

Effective date: May 19, 1992

Amendment Nos.: 169 and 149

Facility Operating License Nos. DPR-53 and DPR-69: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 1, 1991 (56 FR 20028). The supplemental submittals did not change the initial proposed no significant hazards consideration determination as detailed in the supporting Safety Evaluation. The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated May 19, 1992. No significant hazards consideration comments received: No

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland 20678.

Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of application for amendments: January 21, 1992

Brief description of amendments: This amendment adds additional setpoint requirements to the Technical Specifications (TS) for the refueling mast loaded interlock and overload interlock setpoints. This addition is due to the station's plans to install a new refueling mast. The original refueling mast setpoints will remain in the TS because the original refueling mast for Unit 2 will be retained as a backup.

Date of issuance: May 19, 1992

Effective date: May 19, 1992

Amendment Nos.: 83 and 67

Facility Operating License Nos. NPF-11 and NPF-18. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 18, 1992 (57 FR 9440) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 19, 1992. No significant hazards consideration comments received: No

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Ogelsby, Illinois 61348.

Commonwealth Edison Company, Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station, Units 1 and 2, Lake County, Illinois

Date of application for amendments: May 15, 1991, as supplemented July 1, 1991, August 14, 1991, and January 31, 1992.

Brief description of amendments: The amendments revise the Technical Specifications by deleting specific testing frequency requirements and replacing these requirements with references to Specification 4.0.5 as provided in the Westinghouse Standard Technical Specifications.

Date of issuance: May 12, 1992

Effective date: immediately, to be implemented within 30 days

Amendment Nos.: 136 and 125

Facility Operating License Nos. DPR-39 and DPR-48. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 12, 1991 (56 FR 27040) The July 1 and August 14, 1991, submittals identified portions of the proposed amendment request needed to preclude a forced shutdown. The January 31, 1992, submittal provided additional clarifying information and did not change the initial proposed no

significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 12, 1992. No significant hazards consideration comments received: No

Local Public Document Room location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of application for amendment: May 30, 1991

Brief description of amendment: This amendment changes the Variable High Power Trip (VHPT) restart margin from 10% to 15%. The VHPT is incorporated in the reactor protection system to provide a reactor trip for transients exhibiting a core power increase from any initial power level.Specifically, Technical Specifications Table 2.3.1, "Reactor Protective System Trip Setting Limits," is proposed to be changed to incorporate the new 15% reset margin. The Basis and References sections, relating to this Technical Specification, are updated to reflect the set point change.

Date of issuance: May 18, 1992

Effective date: May 18, 1992

Amendment No.: 145

Facility Operating License No. DPR-20. The amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** August 21, 1991 (56 FR 41577) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 18, 1992. No significant hazards consideration comments received: No.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Mississippi Power & Light Company, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: June 26, 1991, as supplemented April 22, 1992

Brief description of amendment: The amendment revised Grand Gulf Nuclear Station, Unit 1 Technical Specifications and associated Bases to increase the surveillance test intervals and the allowed outage times for certain instrumentation associated with the Emergency Core Cooling System, Control Rod Block Function, and Isolation Actuation Instrumentation.

Date of issuance: May 20, 1992

Effective date: May 20, 1992

Amendment No: 97

Facility Operating License No. NPF-29. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** July 24, 1991 (56 FR 33954) The April 22, 1992, letter provided clarifying information that did not change the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 20, 1992.No significant hazards consideration comments received: No

Local Public Document Room location: Judge George W. Armstrong Library, Post Office Box 1406, S. Commerce at Washington, Natchez, Mississippi 39120.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Mississippi Power & Light Company, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: September 11, 1991

Brief description of amendment: The amendment modifies Table 3.3.4.1-2 of the Grand Gulf Nuclear Station Technical Specifications to increase the Trip Setpoint and Allowable Value for the Anticipated Transient Without Scram Recirculation Pump Trip System from 1095 psig to 1126 psig and from 1102 psig to 1139 psig, respectively.

Date of issuance: May 26, 1992

Effective date: May 26, 1992

Amendment No: 98

Facility Operating License No. NPF-29. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** October 16, 1991 (56 FR 51925) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 26, 1992. No significant hazards consideration comments received: No

Local Public Document Room location: Judge George W. Armstrong Library, Post Office Box 1406, S. Commerce at Washington, Natchez, Mississippi 39120.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Mississippi Power & Light Company, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: December 5, 1991

Brief description of amendment: The amendment revises a) the Safety Limit Maximum Critical Power Ratio (MCPR) values for Two-Loop Operation and Single-Loop Operation (SLO), b) the SLO Maximum Average Planar Heat Generation Rate (MAPLHGR) multiplier, c) the flow-dependent MCPR operating limits, d) the power-dependent MCPR operating limits, e) the exposure-dependent MCPR operating limits, f) Linear Heat Generation Rate (LHGR) limits for 8X8 fuel types for average planar exposures beyond 40,000 MWd/MTU, and g) the flow-dependent and power-dependent LHGR multipliers.

Date of issuance: May 28, 1992

Effective date: May 28, 1992

Amendment No: 99

Facility Operating License No. NPF-29. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** January 22, 1992 (57 FR 2593)The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 28, 1992.No significant hazards consideration comments received: No

Local Public Document Room location: Judge George W. Armstrong Library, Post Office Box 1406, S. Commerce at Washington, Natchez, Mississippi 39120.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Mississippi Power & Light Company, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: February 7, 1992

Brief description of amendment: The amendment revised the Environmental Protection Plan by terminating the Cooling Tower Drift Program and changing references to the program to reflect its termination.

Date of issuance: May 18, 1992

Effective date: May 18, 1992

Amendment No: 96

Facility Operating License No. NPF-29. Amendment revises the Environmental Protection Plan.

Date of initial notice in **Federal Register:** March 4, 1992 (57 FR 7810) The Commission's related evaluation of the amendment is contained in an Environmental Assessment dated May 18, 1992, and a Safety Evaluation dated May 18, 1992. No significant hazards consideration comments received: No

Local Public Document Room location: Judge George W. Armstrong Library, Post Office Box 1406, S.

Commerce at Washington, Natchez, Mississippi 39120.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-321 and 50-366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of application for amendments: September 21, 1990, as supplemented February 19, 1992

Brief description of amendments: The amendments modify the Technical Specifications (TS) relating to protective instrumentation for Hatch Units 1 and 2 by adding notes to (1) Unit 1 TS Tables 3.1-1 and 3.2-1 to allow for placing an inoperable channel in a tripped condition; and (2) Unit 1 TS Table 3.2-1 and Unit 2 TS Table 3.3.2-1 to allow the temporary bypassing of the reactor water clean-up (RWCU) system differential flow isolation instrumentation during periods of system restoration, maintenance or testing.

Date of issuance: May 19, 1992

Effective date: To be implemented within 60 days from the date of issuance

Amendment Nos.: 179, 120

Facility Operating License Nos. DPR-57 and NPF-5. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: April 1, 1992 The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 19, 1992. No significant hazards consideration comments received: No.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-321 and 50-366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of application for amendments: October 14, 1991

Brief description of amendments: The amendments remove the Rod Sequence Control System (RSCS), enhance operation of the Rod Worth Minimizer (RWM), and make minor associated administrative corrections.

Date of issuance: May 20, 1992

Effective date: To be implemented within 60 days from the date of issuance.

Amendment Nos.: 180, 121

Facility Operating License Nos. DPR-57 and NPF-5. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: April 15, 1992 (57 FR 13132) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 20, 1992. No significant hazards consideration comments received: No.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of application for amendments: November 12, 1991, as supplemented April 21, 1992

Brief description of amendments: The amendments revise the minimum required thermal design flow (TDF) specified in the TS for Vogtle Units 1 and 2.

Date of issuance: May 28, 1992

Effective date: May 28, 1992

Amendment Nos.: 51 and 30

Facility Operating License Nos. NPF-68 and NPF-81: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: December 2, 1991 (56 FR 61263) The April 21, 1992, letter provided clarifying information that did not change the initial no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 28, 1992. No significant hazards consideration comments received: No.

Local Public Document Room location: Burke County Library, 412 Fourth Street, Waynesboro, Georgia 30830

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station Unit No. 1, Oswego County, New York

Date of application for amendment: March 10, 1992

Brief description of amendment: The amendment revises the Technical Specifications to delete requirements to demonstrate, by testing, that a redundant system/component is operable when a system/component is declared inoperable. In lieu of testing the redundant system/component to demonstrate its operability, the Technical Specifications are being revised to require an administrative check of plant records to verify operability of the redundant system/component. The amendment also makes administrative changes to delete superseded material and makes conforming changes to the Bases, Definitions, and paragraph numbers.

Date of issuance: May 18, 1992

Effective date: May 18, 1992

Amendment No.: 128

Facility Operating License No. DPR-63: Amendment revises the Technical Specifications.

Date of initial notice in Federal Register: April 15, 1992 (57 FR 13133) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 18, 1992.No significant hazards consideration comments received: No

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Northeast Nuclear Energy Company, et al., Docket No. 50-336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of application for amendment: January 31, 1992

Brief description of amendment: The amendment changes references to the spent fuel pool area radiation monitors in the Technical Specifications to remove any inference that they perform a criticality monitoring function, thereby making the Technical Specifications consistent with the NRC Exemption issued October 18, 1991.

Date of issuance: May 20, 1992

Effective date: May 20, 1992

Amendment No.: 157

Facility Operating License No. DPR-65. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: March 18, 1992 (57 FR 9447) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 20, 1992. No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: March 21, 1991, as supplemented June 11, 1991.

Brief description of amendment: The amendment changes Facility Operating License NPF-49 to authorize the transfer of Public Service Company of New Hampshire's (PSNH's) 2.8475 percent ownership in Millstone Unit 3 to a newly

formed and wholly owned subsidiary of Northeast Utilities (NU).

Date of issuance: May 29, 1992

Effective date: The date of the merger between NU and PSNH.

Amendment No.: 66

Facility Operating License No. NPF-49. Amendment revised the License.

Date of initial notice in **Federal Register:** May 13, 1991 (56 FR 22024) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 29, 1992. No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Pacific Gas & Electric Company, Docket No. 50-133, Humboldt Bay Power Plant, Unit 3, Eureka, California.

Date of application for amendment: August 7, 1991, as supplemented November 22, 1991 (Reference LAR 91-01)

Brief description of amendment: This amendment revises the Technical Specifications Section VII, "Administrative Controls": by changing the following: (1) the committee name from General Office Nuclear Plant Review and Audit Committee (GONPRAC) to Nuclear Safety Oversight Committee (NSOC), and (2) change the committee composition, and eliminating the use of alternates on the committee.

Date of issuance: May 15, 1992

Effective date: May 15, 1992

Facility License No. DPR-7: Amendment revised the Technical Specifications.

Amendment No: 25

Local Public Document Room location: Eureka-Humboldt County Library, 421 I Street (County Court House), Eureka, California 95501.

Attorney for licensee: Richard F. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7441, San Francisco, California 94210.

NRC Project Manager: Lawrence Bell

NRC Division Director: Richard L. Bangart

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of application for amendments: April 18, 1991 as supplemented November 4, 1991 and December 17, 1991.

Brief description of amendments: These amendments changed the technical specifications to revise the isolation setpoint for the leak detection temperature function in the Turbine Building main steam tunnel. The technical specifications involved are Item 3i of Table 3.3.2-2, which specifies the temperature requirements, and Section 3/4.3.2 of the Bases.

Date of issuance: May 21, 1992

Effective date: As of the date of issuance and to be implemented within 30 days after the date of issuance.

Amendment Nos.: 119 and 87

Facility Operating License Nos. NPF-14 and NPF-22. These amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 15, 1991 (56 FR 22471) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 21, 1992. No significant hazards consideration comments received: No

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of application for amendments: March 12, 1992 and supplemented by letter dated April 27, 1992.

Brief description of amendments: These amendments changed Technical Specification 3.8.4.1 (Primary Containment Penetration Conductor Overcurrent Protective Devices) to delete reference to fuses in the Limiting Condition for Operation, to delete requirements related to fuse testing in Action a, to delete requirements a.2.a and a.2.b from Surveillance Requirements, and to delete reference to primary containment penetration conductor overcurrent protective fuses in the Technical Specification Bases for surveillance requirements.

Date of issuance: May 21, 1992

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment Nos.: 120 and 88

Facility Operating License Nos. NPF-14 and NPF-22. These amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 1, 1992 (57 FR 11113) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 21, 1992. No significant hazards consideration comments received: No

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of application for amendment: January 8, 1992, as supplemented February 26, 1992.

Brief description of amendment: The amendment revised Technical Specifications Section 5.3 (Reactor) and Section 6.9 (Reporting Requirements) to address the use of ZIRLO ™, as well as Zircaloy-4, fuel rod cladding.

Date of issuance: May 15, 1992

Effective date: May 15, 1992

Amendment No.: 117

Facility Operating License No. DPR-64: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 19, 1992 (57 FR 6041) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 15, 1992. No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Public Service Company of New Hampshire, Docket No. 50-443, Seabrook Station, Rockingham County, New Hampshire

Date of application for amendment: November 13, 1990, as supplemented on January 14, 1991, August 28, 1991, December 13, 1991, January 30, 1992, and February 14, 1992. In addition, two letters dated May 13, 1992 were received from Northeast Utilities.

Brief description of amendment: Revises the Seabrook Unit 1 operating license to reflect the transfer of a 35.6 percent ownership interest in the Seabrook Station, Unit No. 1 from the Public Service Company of New Hampshire to North Atlantic Energy Company (NAEC), a wholly owned subsidiary of Northeast Utilities (NU).

Date of issuance: May 29, 1992

Effective date: May 29, 1992

Amendment No.: 11

Facility Operating License No. NPF-86: Amendment revised the License.

Date of initial notice in **Federal Register:** February 28, 1991 (56 FR 8373) The Commission's related evaluation of the amendment and final no significant hazards determination is contained in an Environmental Assessment published on January 31, 1992 (57 FR 3801), and a Safety Evaluation dated May 29, 1992.

No significant hazards consideration comments received: No

Local Public Document Room location: Exeter Public Library, 47 Front Street, Exeter, New Hampshire 03833.

Public Service Company of New Hampshire, Docket No. 50-443, Seabrook Station, Rockingham County, New Hampshire

Date of application for amendment: November 13, 1990, as supplemented on January 15, 1991, January 22, 1991, April 9, 1991, June 12, 1991, September 16, 1991, December 13, 1991, January 22, 1992, January 30, 1992, and February 14, 1992. In addition, two letters dated May 13, 1992, were received from Northeast Utilities.

Brief description of amendment: Revises the Seabrook Unit 1 operating license to authorize North Atlantic Energy Service Company to act as managing agent.

Date of issuance: May 29, 1992

Effective date: May 29, 1992

Amendment No.: 10

Facility Operating License No. NPF-86: Amendment revised the License.

Date of initial notice in **Federal Register:** March 16, 1991 (56 FR 9384) The Commission's related evaluation of the amendment and final no significant hazards determination is contained in an Environmental Assessment, published on October 28, 1991 (56 FR 55512) and a Safety Evaluation dated May 29, 1992. No significant hazards consideration comments received: No

Local Public Document Room location: Exeter Public Library, 47 Front Street, Exeter, New Hampshire 03833.

Saxton Nuclear Experimental Corporation, Docket No. 50-146, Saxton Nuclear Reactor Facility, Bedford County, Pennsylvania

Date of application for amendment: September 22, 1987, as supplemented.

Brief description of amendment: The amendment removes outbuildings from the license and makes administrative changes to the technical specifications.

Date of issuance: May 28, 1992

Effective date: May 28, 1992

Amendment No.: 11

Amended Facility License No. DPR-4: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 15, 1992 (57 FR 13137) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 28, 1992.No significant hazards consideration comments received: No

Local Public Document Room location: Saxton Community Library, 911 Church Street, Saxton, Pennsylvania 16678.

Southern California Edison Company, et al., Docket No. 50-206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Dates of application for amendment: February 26, 1988, and December 12, 1989, as clarified by letters dated July 27, 1990, and September 23, 1991

Brief description of amendment: The amendment revises the San Onofre Unit 1 Radiological Effluent Technical Specifications in accordance with the guidance in NRC Generic Letter 89-01. The proposed change allows for the implementation of programmatic controls for the Radiological Effluent Technical Specifications (RETS) and Radiological Environmental Monitoring Program in the administrative controls section of the Technical Specifications and the relocation of procedural details to the Offsite Dose Calculation Manual (ODCM) or to the Process Control Program (PCP), as appropriate. In addition, the amendment revises Specification 3.5.5 to exempt the Containment Radioactivity-High Action requirement from Specification 3.0.4 and to clarify that there is not a single manual actuation switch for all five purge and exhaust valves.

Date of issuance: May 15, 1992

Effective date: May 15, 1992

Amendment No.: 145

Facility Operating License No. DPR-13: The amendment revised the Technical Specifications.

Dates of initial notice in **Federal Register:** July 27, 1988 (53 FR 28294) and March 7, 1990 (55 FR 8236). The additional information contained in the supplemental letters dated July 27, 1990, and September 23, 1991, was clarifying in nature and thus within the scope of the initial notices and did not affect the NRC staff's proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 15, 1992. No significant hazards consideration comments received: No.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713

Virginia Electric and Power Company, et al., Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of application for amendments: November 7, 1991

Brief description of amendments: The amendments revise the current NA-1&2 TS to ensure adequate monitoring of groundwater levels for the service water reservoir.

Date of issuance: May 15, 1992

Effective date: May 15, 1992

Amendment Nos.: 160, 141

Facility Operating License Nos. NPF-4 and NPF-7. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 11, 1991 (56 FR 64664) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 15, 1992. No significant hazards consideration comments received: No.

Local Public Document Room location: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903-2498.

Virginia Electric and Power Company, et al., Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of application for amendments: December 20, 1991

Brief description of amendments: The amendments eliminate the use of the reactor coolant resistance temperature detectors bypass system and implement in its place the use of thermowells that extend into main reactor coolant system piping.

Date of issuance: May 15, 1992

Effective date: May 15, 1992

Amendment Nos.: 161 and 142

Facility Operating License Nos. NPF-4 and NPF-7. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 1, 1992 (57 FR 11117) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 15, 1992.No significant hazards consideration comments received: No.

Local Public Document Room location: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903-2498.

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of application for amendment: February 21, 1991

Brief description of amendment: The amendment increases the surveillance interval to a quarterly basis for those channel functional tests of the emergency core cooling system (ECCS) actuation instrumentation which are currently specified as monthly, with the exception of the 4.16 kV emergency bus undervoltage which is not changed. The

amendment also increases the allowable outage time for trip system channel testing from 2 hours to 6 hours and provides a 24-hour allowable outage time to repair inoperable ECCS actuation instrumentation channels.

Date of issuance: May 15, 1992
Effective date: May 15, 1992
Amendment No.: 104
Facility Operating License No. NPF-21: The amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** August 7, 1991 (56 FR 37592) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 15, 1992. No significant hazards consideration comments received: No.
Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington 99352

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of application for amendment: February 21, 1992
Brief description of amendment: This amendment revised Technical Specifications 3.4.2, "Safety/Relief Valves" and 3.3.7.5, "Accident Monitoring Instrumentation" to incorporate the added redundancy provided by the installation of a safety-grade safety/relief valve position indication instrumentation system.
Date of issuance: May 15, 1992
Effective date: May 15, 1992
Amendment No.: 105
Facility Operating License No. NPF-21: The amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** April 15, 1992 (57 FR 13139) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 15, 1992. No significant hazards consideration comments received: No.
Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington 99352

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendments: September 13, 1991
Brief description of amendments: These amendments revise TS Section 15.3.1.B, Reactor Coolant System, Pressure/Temperature Limits, and its Bases, and removes TABLE 15.3.1-1 (Unit No. 1) and TABLE 15.3.1-2 (Unit No. 2), Reactor Vessel Surveillance Capsule Removal Schedule. These changes are consistent with the guidance in Generic Letter 91-01, "Removal of the Scheduler for the Withdrawal of Reactor Vessel Material Specimen from Technical Specifications."
Date of issuance: May 26, 1992
Effective date: May 26, 1992
Amendment Nos.: 131 and 135
Facility Operating License Nos. DPR-24 and DPR-27. Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** February 5, 1992 (57 FR 4496) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 26, 1992. No significant hazards consideration comments received: No.
Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

Notice of Issuance of Amendment to Facility Operating License and Final Determination of No Significant Hazards Consideration and Opportunity for Hearing (Exigent or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for a Hearing. For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document

Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U. S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. By July 10, 1992, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to **(Project Director)**: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of application for amendments: May 15, 1992

Brief description of amendments: These amendments would suspend the fire protection water flow testing requirements of TS 3/4.7.9.1, 3/4.7.9.2, and 3/4.7.9.5. These sections cover the fire pumps, water suppression systems, and hose stations. All other surveillance testing of fire protection systems will continue in accordance with the TS. This amendment is being treated as an emergency TS change in accordance with 10 CFR 50.91(a)(5).

Date of issuance: May 22, 1992

Effective date: May 22, 1992

Amendment Nos. 165 and 150

Facility Operating License Nos. DPR-58 and DPR-74. Amendments revised the Technical Specifications. Public comments requested as to proposed no significant hazards consideration: No. The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated May 22, 1992.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

Local Public Document Room location: Maude Preston Palenske

Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

NRC Project Director: L. B. Marsh

Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of application for amendment: May 22, 1992 (which superseded a May 19, 1992, letter)

Brief description of amendment: The amendment revises Technical Specifications Section 5.3 (Reactor) to allow substitution of a stainless steel filler rod in place of a fuel rod in fuel assemblies W51 and W06. The amendment is applicable for fuel cycles 9 and 10 only. The amendment also deletes the fuel cycle 8 specific fuel assembly description of Section 5.3 since cycle 8 has ended and this description is no longer applicable.

Date of issuance: May 28, 1992

Effective date: May 28, 1992

Amendment No.: 118

Facility Operating License No. DPR-64: Amendment revised the Technical Specifications. Public comments requested as to proposed no significant hazards consideration: No. The Commission's related evaluation of the amendment and final no significant hazards consideration determination are contained in a Safety Evaluation dated May 28, 1992.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRR Project Director: Robert A. Capra, Director

Dated at Rockville, Maryland, this 3rd day of June, 1992.

For the Nuclear Regulatory Commission

Gus C. Lainas,

Acting Director, Division of Reactor Projects - I/II, Office of Nuclear Reactor Regulation

[Doc. 92-13521 Filed 6-9-92; 8:45 am]

BILLING CODE 7590-01-F

OFFICE OF PERSONNEL MANAGEMENT

Director's Advisory Committee on Law Enforcement and Protective Occupations

AGENCY: Office of Personnel Management.

ACTION: Notice of open meeting.

SUMMARY: According to the provisions of section 10 of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that the eighth meeting of the Director's Advisory Committee on Law Enforcement and Protective Occupations will be held at the time and place shown below:

DATE: June 25, 1992, 2 p.m.

PLACE: Omni Shoreham Hotel, 2500 Calvert Street, NW., Washington, DC.

AGENDA: The focus of the June 25th meeting will be further exchange of ideas on various pay and classification issues affecting law enforcement and protective occupations and discussion of a range of options on pay and classification reform.

FOR FURTHER INFORMATION CONTACT: Phyllis G. Foley, Director, Law Enforcement and Protective Occupations Task Force, Office of Compensation Policy, Personnel Systems and Oversight Group, Office of Personnel Management, room 7H30, 1900 E Street, NW., Washington, DC 20415.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. If time permits, an opportunity will be provided for members of the public in attendance at the meeting to provide their views. Persons wishing to address the Advisory Committee orally at the meeting should submit a written request no later than the close of business on June 15, 1992. The request must include the name and address of the person wishing to appear, the capacity in which the appearance will be made, a short summary of the intended presentation, and the amount of time desired.

Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 92-13545 Filed 6-9-92; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

Requests Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Filings, Information, and Consumer Services, 450 5th Street, NW., Washington, DC 20549.

New

File No. 270-365

Interviews Regarding Securities Registration Procedures

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted for OMB approval a request to interview up to 150 persons or entities to obtain background information for use in formulating proposals to simplify securities registration procedures, including, but not limited to, short-form and shelf registration procedures and procedures for registering asset-backed securities. Each interview is estimated to require one burden hour.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with the Securities and Exchange Commission rules and forms to Kenneth A. Fogash, Deputy Executive Director, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549 and Gary Waxman, Clearance Officer, Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: June 4, 1992.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-13630 Filed 6-9-92; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2141.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Filings, Information and Consumer Services, 450 Fifth Street, NW., Washington, DC 20549.

New

File No. 270-364, Proposed Rule 3a-7

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for OMB approval proposed rule 3a-7 under the Investment Company Act of 1940. Rule 3a-7 would exclude certain issuers that pool income-producing assets and issue securities backed by those assets ("structured financings") from the definition of investment company under certain conditions. One such condition would be that the trustee execute an agreement providing for the financing's sponsor or agent of the sponsor to keep a record of security holders. Each of the 54 respondents would incur an annual

estimated 16 burden hours to comply with this requirement.

The estimated average burden hours are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even representative survey or study of the cost of SEC rules and forms.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with SEC rules and forms to Kenneth A. Fogash, Deputy Executive Director, 450 Fifth Street, NW., Washington, DC 20549, and Gary Waxman, Clearance Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: June 4, 1992.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-13631 Filed 6-9-92; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-9848]

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Caretenders Health Corp., Common Stock, $.02 Par Value)

June 4, 1992.

Caretenders Health Corp. ("Company") has filed an application with the Securities and Exchange Commission, ("Commission") pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security from listing and registration on the Boston Stock Exchange, Inc. ("BSE" or "Exchange").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

According to the Company, it is requesting the delisting from the BSE because its Common Stock has not been trading on this Exchange for at least six months, and the Company does not want to maintain the additional expense of keeping its Common Stock listed on the BSE.

Any interested person may, on or before June 25, 1992 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-13632 Filed 6-9-92; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-8801]

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Graham-Field Health Products, Inc., Common Stock, $0.25 Par Value)

June 4, 1992.

Graham-Field Health Products, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

According to the Company, its Board of Directors approved and adopted resolutions on March 27, 1992, to withdraw the Common Stock from listing on the Amex, and list the Common Stock on the New York Stock Exchange, Inc. ("NYSE"). The decision of the Board followed a lengthy study of the matter, and was based upon the belief that listing of the Common Stock on the NYSE would be more beneficial to its stockholders than the present listing on the Amex because of the following reasons:

(1) The Company believes that the NYSE system will result in increased visibility and sponsorship for its Common Stock than is presently the case with the Amex;

(2) The Company believes that the NYSE system will offer the Company's stockholders more liquidity than is presently available on the Amex and less volatility in quoted prices per share when trading volume is slight;

(3) The Company believes that the NYSE system will offer the opportunity for the Company to secure its own group of market makers and expand the capital base available for trading in the Common Stock; and

(4) The Company believes that the firms making a market in the Company's Common Stock on the NYSE system will also be inclined to issue research reports concerning the Company, thereby increasing the number of firms providing institutional research and advisory reports.

Any interested person may, on or before June 25, 1992 submit by letter to the Secretary the of Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-13634 Filed 6-9-92; 8:45 am]

BILLING CODE 8010-01-M

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (International Testing Systems, Inc., Common Stock, $0.01 Par Value) File No. 1-10825

June 4, 1992.

International Testing Systems, Inc. ("Company") has filed an application with the Securities and Exchange Commission, ("Commission") pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security from listing and registration on the Pacific Stock Exchange, Inc. ("PSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

According to the Company, it requests such withdrawal from listing and registration because it believes that trading volume has been relatively low on the PSE, amounting to less than ten percent of the total trading in the Company's Common Stock. Additionally, the Company states that the continued listing of the Common Stock on the PSE is costly to the Company. Finally, the company's Common Stock will continue to be listed

and traded on the American Stock Exchange, Inc.

Any interested person may, on or before June 25, 1992, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-13635 Filed 6-9-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18751; 812-7803]

Oppenheimer Asset Allocation Fund, et al. Application

June 3, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Oppenheimer Asset Allocation Fund, Oppenheimer California Tax-Exempt Fund, Oppenheimer Discovery Fund, Oppenheimer Global Bio-Tech, Fund, Oppenheimer Global Environment Fund, Oppenheimer Global Fund, Oppenheimer Global Growth & Income Fund, Oppenheimer GNMA Fund, Oppenheimer Gold & Special Minerals Fund, Oppenheimer Fund, Oppenheimer Multi-Government Trust, Oppenheimer Multi-Sector Income Trust, Oppenheimer New York Tax-Exempt Fund, Oppenheimer Pennsylvania Tax-Exempt Fund, Oppenheimer Special Fund, Oppenheimer Target Fund, Oppenheimer Tax-Free Bond Fund, Oppenheimer Time Fund, Oppenheimer U.S. Government Trust, Oppenheimer Money Market Fund, Inc., Centennial California Tax Exempt Trust, Centennial Connecticut Tax Exempt Trust, Centennial Government Trust, Centennial Money Market Trust, Centennial New York Tax Exempt Trust, Centennial Tax Exempt Trust, Daily Cash Accumulation Fund, Inc., Centennial America Fund, L.P., First Trust Fund, First Trust Tax-Free Bond Fund, Main Street Funds, Inc., Oppenheimer Blue Chip Fund, Centennial Cash Reserves, Oppenheimer Champion High Yield Fund, Oppenheimer Equity Income Fund, Oppenheimer Integrity Funds, Oppenheimer High Yield Fund, Oppenheimer Strategic Income Fund, Oppenheimer Strategic Investment Grade Bond Fund, Oppenheimer Strategic Short Term Income Fund, Oppenheimer Tax-Exempt Cash Reserves, Oppenheimer Total Return Fund, Inc., Oppenheimer Variable Account Funds, Oppenheimer Management Corporation ("OMC"), Centennial Asset Management Corporation ("Centennial"), and all future management investment companies and series thereof which are advised by OMC, Centennial, or any existing or future affiliate thereof (the foregoing, except OMC and Centennial, are collectively referred to as the "Funds").

RELEVANT 1940 ACT SECTIONS: Section 17(d) of the Act and rule 17d-1 thereunder.

SUMMARY OF APPLICATION: Applicants seek a conditional order to permit the Funds to participate in joint trading accounts to be used to enter into repurchase agreements.

FILING DATE: The application was filed on October 11, 1991 and amended on April 13, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 29, 1992, and should be accompanied by proof of service on the applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, c/o Andrew J. Donohue, Esq., Oppenheimer Management Corporation, 2 World Trade Center, 34th Floor, New York, NY 10048-0203.

FOR FURTHER INFORMATION CONTACT: James M. Curtis, Staff Attorney, at (202) 504-2406 or Barry D. Miller, Senior Special Counsel, at (202) 272-3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. Each Fund is a registered open-end management investment company, except for Oppenheimer Multi-Government Trust and Oppenheimer Multi-Sector Income Trust, which are registered closed-end management investment companies. Each Fund is a Massachusetts business trust, except for Oppenheimer Money Market Fund, Inc., Daily Cash Accumulation Fund, Inc., Main Street Funds, Inc. and Oppenheimer Total Return Fund, Inc., which are organized as Maryland corporations, and Centennial America Fund, L.P., which is organized as a Delaware limited partnership.

2. OMC serves as the investment adviser for each of the Funds listed above, except Daily Cash Accumulation Fund, Inc., Centennial California Tax Exempt Trust, Centennial Connecticut Tax Exempt Trust, Centennial Government Trust, Centennial Money Market Trust, Centennial New York Tax Exempt Trust, Centennial Tax Exempt Trust and Centennial Cash Reserves, which are advised by Centennial, a wholly-owned subsidiary of OMC. The Funds advised by Centennial or an affiliate thereof are referred to as the "Centennial Funds." The Funds advised by OMC or an affiliate thereof, except Centennial, are referred to as the "Oppenheimer Funds."

3. Each Fund has a custodial relationship with one of the following custodians: Citibank, N.A., The Bank of New York, Security Pacific National Bank, or State Street Bank and Trust Company. However, the Funds may use another custodian qualified under section 17 of the Act in the future if they deem it in their best interests to do so.

4. Each of the Funds has, or may be expected to have, uninvested cash balances in its account at its custodian which otherwise would not be invested in portfolio securities by its investment adviser at the end of each trading day. Ordinarily, some or all of such assets of each Fund are, or would be invested in overnight repurchase agreements, money market instruments, or other short-term investments authorized by its investment policies, in order to earn additional income for that Fund. Generally, there can remain, in the respective account of each Fund, some

amount of its assets which is received too late or is too small to be effectively invested in a separate transaction and/or at a competitive rate. Presently, each Fund must separately pursue, secure and implement the investment of such cash balances. This has resulted in certain inefficiencies and may limit the investment return which some or all Funds achieve. The Funds seek to invest their cash balances more productively by using the procedures described herein.

5. The Oppenheimer Funds intend to maintain a joint repurchase agreement account with one or more of their custodians. Each joint account will be used exclusively for the pooling of excess cash of the Funds participating in such account for the purchase of one or more repurchase agreements. The determination as to whether an Oppenheimer Fund will participate in the joint account at its custodian or in a joint account at another custodian will depend on whether the advantages of pooling its excess cash with other Oppenheimer Funds at another custodian outweigh the costs the Fund would incur in wiring its excess cash to and from such other custodian. The Centennial Funds intend to maintain a separate joint repurchase agreement account with Citibank, N.A. as the designated custodian. However, if in the future the Centennial Funds utilize different custodians as the Oppenheimer Funds do now, then the Centennial Funds may establish separate joint accounts at each such custodian.

6. Each Fund would be permitted to deposit daily all or a portion of its univested net cash balances into the respective separate custodian cash account. Each Fund's decision to invest in an account shall be solely at the Fund's option, and no Fund shall be obligated to invest in, or to maintain any minimum balance in, an account.

7. In connection with the use of repurchase transactions, each of the Funds has established standards and procedures. These include credit standards for counterparties of repurchase agreements and requirements that the repurchase agreements will be fully collateralized at all times. In addition, all joint repurchase agreement transactions contemplated herein would be effected in accordance with the guidelines set forth in Investment Company Act Release No. 13005 (February 2, 1983). The Funds, if necessary, will modify their systems and standards to comply with any positions taken by the staff or the Commission by rule and release relating to the joint repurchase agreement transactions.

8. The proposed custodian accounts would not be distinguishable from any other accounts maintained by a Fund with its custodian, except that monies from a Fund would be deposited in it on a commingled basis. An account would not have any separate existence which would have indicia of a separate legal entity. Each Fund could transfer all or a portion of its uninvested cash into an account. Applicants believe that the securities purchased through an account will not be subject to the claims of creditors, whether brought in bankruptcy, insolvency, or other legal proceedings, of any other participant Fund of such account. Each Fund's liability on any repurchase agreement purchasd by a joint account will be limited to its interest in such repurchase agreement. The sole function of this account would be to provide a convenient and productive way of aggregating what otherwise would be the one or more individual transactions for each Fund necessary to manage the daily uninvested cash balances of each Fund.

9. Each repurchase agreement would be entered into by calling one of the approved sellers and repurchase agreements and indicating the size of the desired repurchase agreements and negotiating the rate of interest. The particular securities to be held as collateral by an account would then be identified and the repsective custodian would be notified. The securities either would be (i) wired to the account of the custodian of the joint account at the proper Federal Reserve Bank, or (ii) physically transferred to a segregated account of the custodian.

10. Applicants believe that the joint accounts would save the Funds substantial amounts in annual transaction fees, and allow OMC and Centennial to negotiate higher rates of return when investing the excess cash. The Funds would collectively save approximately $37,000 in yearly transaction fees at present levels by the substitution of relatively few transactions for the approximately 1,726 yearly transactions which are necessary currently.

11. Each Fund would participate in an account on the same basis as every other Fund in conformity with its fundamental investment objectives and restrictions. Neither OMC nor Centennial would have any monetary participation in an account but would be responsible for investing amounts in an account, establishing accounting and control procedures and ensuring equal treatment of each Fund. The assets of the Funds would continue to be held under proper bank custodial procedures.

Applicants' Legal Analysis

1. Each Fund, by participating in the proposed joint accounts, and OMC and Centennial, by managing the proposed accounts, could be deemed to be "a joint or a joint and several participant" in "any transaction" within the meaning of section 17(d) of the Act, and the proposed accounts could be deemed to be a "joint enterprise or other arrangement" within the meaning of rule 17d–1 under the Act.

2. The Boards of Trustees, Directors, and Managing General Partners, as the case may be, of each of the existing Funds has considered the proposed joint accounts and determined that the use of such accounts would be fair, economically desirable, and beneficial to each Fund which engages in repurchase transactions for the reasons set forth herein.

3. On the basis of the information considered by each Board, the Trustees, Directors, or Managing Partners of each Fund have satisfied themselves that the proposed method of operating the joint accounts would not result in conflicts of interests between any of the Funds or between a Fund and its investment adviser. They have further determined that there does not appear to be any basis upon which to predicate greater benefits to one Fund than to another, because the daily uninvested cash balance in any one Fund on any given day is neither a function of the size of the Fund nor of the particular securities in which it invests, but is rather a function of other factors, such as portfolio managment decisions (such as delaying a planned purchase because of the occurrence of some event or temporary unavailability of suitable securities for investment in conformity with the Fund's investment policies), shareholder purchases and redemptions, or settlement of trades on dates other than predicted, relating to any one Fund on any one day. They have also considered the fact that although OMC and Centennial would gain some benefit through administrative convenience and some possible reduction in clerical costs, the primary beneficiaries would be the Funds and their shareholders, because a joint account would be a more efficient and productive way of administering these daily investment transactions.

4. Applicants conclude that, for the reasons set forth herein, the granting of the requested order would be consistent with the provisions, policies, and

purposes of the Act, and that participation in the proposed joint trading accounts by each Fund would not be a basis different from or less advantageous than that of any other participant in the account. Applicants also conclude that the participation by OMC and Centennial would be ministerial only so that criteria for issuance of an order under section 17(d) of the Act and rule 17d–1 thereunder are met.

Applicants' Conditions

Applicants agree that the order of the Commission granting the requested relief shall be subject to the following conditions:

1. A separate cash account would be established on behalf of the Oppenheimer Funds at one or more custodian banks and a separate cash account would be estblished on behalf of the Centennial Funds at a custodian bank. Each Fund would be permitted to deposit daily all or a portion of its uninvested net cash balances into the respective separate custodian cash account.

2. Cash in an account would be invested solely in repurchase agreements (with a duration not to exceed seven days) collateralized by suitable U.S. Government obligations, *i.e.*, obligations issued or guaranteed as to principal or interest by the U.S. Government or by any of its agencies or instrumentalities and satisfying the uniform standards set by the Funds for such investments.

3. All investments held by an account would be valued on an amortized cost basis. Each Fund subject to an exemptive order permitting valuation of its securities on an amortized cost basis, or the use of the penny rounding method of pricing its shares, or relying upon rule 2a–7 under the Act for either purpose, would use the average dollar weighted maturity of an account for the prupose of computing the Fund's average portfolio maturity with respect to the portion of its assets held in such account on that day.

4. In order to assure that there would be no opportunity for one Fund to use any part of a balance of an account credited to another Fund, no Fund shall be allowed to create a negative balance in an account for any reason, although it will be permitted to draw down its entire balance at any time. Each Fund's decision to invest in an account would be solely at the Fund's option, and no Fund will be obligated to invest in or to maintain any minimum balance in, an account. In addition, each Fund shall retain the sole rights of ownership of any of its assets, including interest payable, on such assets invested in an account. Each Fund's investment in an account shall be documented daily on the books of each Fund as well as on the custodian's respective books.

5. Each Fund would participate in the income earned or accrued in an account, including all instruments held by such account, on the basis of the percentage of the total amount in such account on any day represented by its share of such account.

6. OMC on behalf of the Oppenheimer Funds and Centennial on behalf of the Centennial Funds, will administer and will invest the cash balance in the respective account as part of its duties under its existing or any future investment management contract with each Fund, and will not collect any additional or separate fee for the administration of an account.

7. The administration of an account would be within the fidelity bond coverage required by section 17(g) of the Act and Rule 17g–1 thereunder.

8. The Boards of Trustees or Directors or Managing General Partners, as the case may be, of the existing Funds and of future Funds participating in an account shall evaluate the joint account arrangements annually and shall continue an account only if they determine that there is a reasonable likelihood that continued participation in an account will benefit the Funds and their shareholders.

9. All repurchase agreements will have an overnight, over-the-weekend or over a holiday maturity, and in no event a maturity of more than seven days.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–13637 Filed 6–9–92; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–18746; 812–7788]

SBC Portfolio Management International, Inc.; Application

June 2, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of filing of application for an order of exemption under the Investment Company Act of 1940 (the "Investment Company Act").

APPLICANT: SBC Portfolio Management International, Inc. ("PMI").

RELEVANT INVESTMENT COMPANY ACT SECTIONS: Order requested under section 9(c) of the Investment Company Act granting an exemption from section 9(a) of the Investment Company Act.

SUMMARY OF APPLICATION: PMI seeks an order under section 9(c) of the Investment Company Act on behalf of itself and its affiliated person who in the future register as investment advisers under the Investment Advisers Act of 1940 (the "Advisers Act") or as broker/dealers under the Securities Exchange Act of 1934 (the "Exchange Act") (the "Affiliates"). The order would exempt PMI and the Affiliates from the disqualification provisions of section 9(a) of the Investment Company Act solely with respect to an injunction entered against Swiss Bank Corporation, PMI's parent corporation, in 1975.

FILING DATE: The application was filed on September 16, 1991, and amended on March 12, 1992 and April 17, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personnally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 29, 1992, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, One World Trade Center, suite 9051, New York, NY 10048.

FOR FURTHER INFORMATION CONTACT: Nicholas D. Thomas, Staff Attorney, at (202) 504–2263, or Elizabeth G. Osterman, Branch Chief, at (202) 272–3016 (Division of Investment Management, Office of Investment Company Regulation.)

SUPPLEMENTARY INFORMATION: The folllowing is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. PMI is an investment adviser registered under the Advisers Act (File No. 801–17403) that has been providing investment advice to institutional investors since 1982. Swiss Bank Corporation ("SBC"), PMI's parent corporation, is a Swiss corporation primarily engaged in the business of banking through branches, agencies, and

representatives throughout the world. SBC has been providing banking services in the United States since 1939. If the requested relief is granted, PMI intends to act as investment adviser to registered investment companies.

2. On May 21, 1975, the SEC brought an action against various defendants, including SBC, alleging violation of sections 10(b) and 13(d) of the Exchange Act and rules 10b–5, 13d–1, and 13d–2 thereunder. *Securities and Exchange Commission* v. *General Refractories Company*, 400 F. Supp. 1248 (D.D.C. 1975). The complaint alleged that SBC, as custodian, held more than ten percent of the outstanding voting shares of General Refractories Company on behalf of one beneficial owner, and that SBC was advised by counsel that it might be held to have violated section 13(d) of the Exchange Act if it voted such shares without filing a Schedule 13D.[1] The complaint further alleged that, without altering the beneficial ownership of the shares, SBC divided the General Refractories shares into blocks of less than five percent and delivered such blocks to various correspondent institutions with the intent of avoiding the section 13(d) filing requirement. It also alleged that SBC, through one of its accounts at a correspondent institution, received additional shares of General Refractories Company that had been purchased on the open market for certain of its customers, including one of the named defendants. On September 4, 1975, SBC consented to the entry of a Judgment and Order of Permanent Injunction and Ancillary Relief without admitting or denying any of the allegations set forth in the complaint ("Swiss Bank Order"). PMI states that PMI and SBC have determined that neither they nor any of their affiliates have been subject to any proceedings or allegations of violations of the federal securities laws other than those discussed in the application since 1975.[2]

3. PMI seeks an order pursuant to section 9(c) of the Investment Company Act exempting it from the disqualification provisions of section 9(a) of the Investment Company Act solely with respect to the Swiss Bank Order. PMI also is requesting identical relief on behalf of the Affiliates.

Legal Analysis

1. Section 9(a)(2) of the Investment Company Act provides, in pertinent part, that it is unlawful for any person to serve or act in the capacity of "employee, officer, director, member of an advisory board, investment adviser, or depositor of any registered investment company, or principal underwriter for any registered open-end company, registered unit investment trust, or registered face amount certificate company" if such person, by reason of any misconduct, is permanently or temporarily enjoined from engaging in any conduct or practice in connection with the purchase or sale of any security. Under section 9(a)(3), "a company, any affiliated person of which is ineligible" by reason of section 9(a)(2) is similarly ineligible.

2. Because PMI is a wholly owned subsidiary of SBC, PMI and certain of its affiliated persons are affiliated persons of SBC.[3] Section 9(a)(3), therefore, subjects PMI and certain of its affiliated persons to the prohibitions of section 9(a) as a result of the Swiss Bank Order.

3. Section 9(c) of the Investment Company Act provides that, upon application, the SEC shall by order grant an exemption from the provisions of section 9(a) either unconditionally or on an appropriate temporary or other conditional basis, if it is established that the prohibitions of section 9(a), as applied to applicant, are "unduly or disproportionately severe or that the conduct of such person has been such as not to make it against the public interest or protection of investors to grant such application."

4. PMI believes the granting of an order is proper to avoid unduly and disproportionately severe consequences to it. In addition, PMI asserts that an order would not be against the public interest nor compromise in any way the protection of investors because of SBC's adherence to the procedures instituted in the Swiss Bank Order, the absence of any court orders relating to violations of the Federal securities laws during the past sixteen years, and the absence of any violations relating to the provisions of investment advisory services. Further, the alleged violations that give rise to the Swiss Bank Order did not involve any investment-advisory or investment-company activities.

5. In anticipation of serving as an investment adviser to registered investment companies, PMI has retained counsel experienced in issues arising under the Investment Company Act and the Advisers Act. With assistance from counsel, PMI will prepare a manual detailing its responsibilities under the Investment Company Act and the Advisers Act, copies of which will be distributed to PMI's operations and compliance staff who are engaged in activities relating to registered investment companies. All of PMI's operations and compliance personnel will be required to be familiar with these compliance procedures.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–13636 Filed 6–9–92; 8:45 am]

BILLING CODE 8010–01–M

---

[1] Section 13(d) of the Exchange Act and the rules thereunder require any holder of more than five percent of any class of equity securities registered pursuant to section 12 of the Exchange Act to file Schedule 13D (or, in some cases, Schedule 13G) disclosing the identity of the benefical owner, the number of shares held, and certain other information.

[2] Although certain actions besides the one resulting in the entry of the injunction have been brought against SBC and/or its affiliated persons, those actions do not trigger the disqualification provisions of section 9(a) of the Investment Company Act. In the late 1980's, the New York Stock Exchange ("NYSE") brought a disciplinary action against SBCI Swiss Bank Corporation Investment, Inc. ("SBCI"), a wholly owned subsidiary of SBC, for violations of, among other things, federal minimum capital requirements. SBCI entered into a settlement of the charges and paid a fine to the NYSE of $150,000. On January 16, 1992, the Commission, together with the Office of the Comptroller of the Currency and the Board of Governors of the Federal Reserve System instituted an action against SBC Government Securities, Inc. ("GSI"), a wholly owned subsidiary of SBC, for alleged misdeeds conducted in connection with the primary distribution of unsecured debt securities issued by five government-sponsored enterprises. In the Matter of the Distribution of Securities Issued by Certain Government Sponsored Enterprises, Admin. Proc. File No. 3–7646 (Jan. 16, 1992). On the same date, GSI consented to the entry of an order that, among other things, imposed a civil money penalty of $10,000. Securities Exchange Act Release No. 30246 (Jan. 16, 1992).

[3] Pursuant to section 2(a)(3) of the Investment Company Act, an affiliated person of another person includes "any person directly or indirectly or indirectly owning, controlling, or holding with power to vote, 5 per centum or more of the outstanding voting securities of such other person" and "any person directly or indirectly controlling, controlled by, or under common control with, such other person." Pursuant to section 3(a)(9), "[a]ny person who owns beneficially * * * more than 25 per centum of the voting securities of a company shall be presumed to control such company."

[Rel. No. IC–18747; File No. 812–7904]

SMA Life Assurance Company, et al.

June 2, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or the "Commission").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: SMA Life Assurance Company ("SMA Life"), Allmerica Select Separate Account ("Separate Account"), and Allmerica Investments, Inc.

RELEVANT 1940 ACT SECTIONS: Order requested under section 6(c) of the 1940

Act for exemptions from sections 26(a)(2)(C) and 27(c)(2) thereof.

SUMMARY OF APPLICATION: Applicants seek an order approving the assessment and deduction of a mortality and expense risk charge from the assets of the Separate Account which serves as the funding medium for certain individual combination fixed/variable annuity contracts issued by SMA Life (the "Contracts").

FILING DATE: The application was filed on April 15, 1992, and amended on May 19, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on June 29, 1992, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of the date of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, c/o Rodney J. Vessels, SMA Life Assurance Company, 440 Lincoln Street, Worcester, MA 01653.

FOR FURTHER INFORMATION CONTACT: Patrice M. Pitts, Attorney, at (202) 272-3040, or Michael V. Wible, Special Counsel, at (202) 272-2060, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. SMA Life, a stock life insurance company incorporated in 1974 under the laws of Delaware, is a wholly-owned subsidiary of State Mutual Life Assurance Company of America ("State Mutual").

2. SMA Life is the depositor and sponsor of the Separate Account. The Separate Account is a registered unit investment trust under the 1940 Act, and was established to hold certain assets as reserves for the Contracts. The Separate Account presently consists of five subaccounts (the "Subaccounts"), each of which will invest solely in the shares of one of the investment portfolios of Allmerica Investment Trust (the "Trust"), a diversified open-end management investment company registered under the 1940 Act and organized as a Massachusetts business trust.

The Trust currently consits of five investment portfolios: Aggressive Growth Fund, Growth Fund II, Growth and Income Fund, Quality Income Fund, and Money Market Fund (the "Funds"). Shares of each Fund are purchased by SMA Life for the corresponding Subaccount at the net asset value per share of the Fund. Shares of the Funds also are offered to other separate accounts of SMA Life and State Mutual serving as funding media for variable life and annuity contracts.

4. Allmerica Investments, Inc., an indirect wholly-owned subsidiary of State Mutual, is the proposed principal underwriter for the Separate Account. Allmerica Investments, Inc. is registered as a broker-dealer under the Securities Exchange Act of 1934, and is a member of the National Association of Securities Dealers.

5. The Contracts may be issued to plans qualifying for special federal income tax treatment under sections 401(a), 401(c), 403(a), 403(b), 408 and 457 of the Internal Revenue Code, and to individuals, plans and trusts that do not qualify for special tax treatment under the Internal Revenue Code. Purchase payments received under the Contracts may be allocated by the Contract Owner to any one or more of the Subaccounts, and to the general account of SMA Life for accumulation on a fixed basis.

6. Upon death of the annuitant prior to the annuity commencement date, SMA Life will pay the beneficiary a death benefit equal to the greatest of: (a) The accumulated value under the Contract (the "Accumulated Value"); (b) the total amount of gross purchase payments made under the Contract minus the amounts of all prior partial withdrawals; or (c) the amount that would have been paid on death of the annuitant at the most recent fifth year Contract anniversary, adjusted for subsequent purchase payments and withdrawals after that date. Upon death of a Contract owner who is not the annuitant, SMA Life will pay the beneficiary the Accumulated Value.

7. Prior to the annuity commencement date, SMA Life assesses an annual fee (the "Contract Fee") of $30 at each Contract anniversary and at full surrender of the Contract. SMA Life guarantees that this charge will not increase.

8. For certain administrative services, SMA Life assesses the Subaccounts a daily charge equal to 0.15% annually of the current value of the Subaccounts (the "Administrative Expense Charge"). The level of the Administrative Expense Charge is guaranteed not to increase. The Applicants represents that the Administrative Expense Charge and the Contract Fee are designed to reimburse SMA Life for the cost of administration and related expenses and are not expected to be a source of profit.

9. The Contracts do not assess a front-end sales charge from the purchase payments made by Contract owners. In lieu of a front-end sales charge, the Contracts assess a contingent deferred sales charge which is applied in the case of Contract surrender, partial redemption or annuitization under some period certain options.

10. For purposes of determining the contingent deferred sales charge, the Accumulated Value is divided into three categories: (a) Purchase payments received by SMA Life during the seven years preceding the date of the surrender (the "New Purchase Payments"); (b) purchase payments not defined as New Purchase Payments (the "Old Purchase Payments"); and (c) the amount of accumulated value in excess of all purchase payments that have not been previously surrendered (the "Earnings"). Redemptions will be deemed to be made first from Old Purchase Payments, then from New Purchase Payments, and then from Earnings. For the purpose of calculating the contingent deferred sales charges for New Purchase Payments, all amounts withdrawn plus any charges are assumed to be deducted first from the earliest New Purchase Payment and then from the next earliest New Purchase Payment and so on, until all New Purchase Payments have been exhausted. Old Purchase Payments and Earnings are not subject to a contingent deferred sales charge.

11. The contingent deferred sales charges are computed as follows:

Years from date of purchase payment to date of withdrawal	Charge as a percentage of new purchase payments withdrawn
0–1	6.5
2	6.0
3	5.0
4	4.0
5	3.0
6	2.0
7	1.0
More than 7	0

In no event will the contingent deferred sales charge assessed against a Contract exceed 6.5% of the gross New Purchase Payments.

12. After the first Contract year, SMA Life will waive the contingent deferred sales charge, if any, on an amount (the "Free Withdrawal Amount") equal to a given percentage of the Accumulated Value as of December 31 of the previous calendar year ("Year-End Accumulated Value"). If the Contract owner and the annuitant are different individuals, the Free Withdrawal Amount will equal 10% of the Year-End Accumulated Value. If the contract owner and the annuitant are the same individual, the Free Withdrawal Amount will be the greater of (a) 10% of the Year-End Accumulated Value, or (b) the amount calculated by SMA Life under a life expectancy distribution, whether or not the withdrawal was part of such distribution. If more than one partial withdrawal is made during the calendar year, on each subsequent withdrawal SMA Life will waive the contingent deferred sales charge, if any, until the entire Free Withdrawal Amount has been redeemed. In the event that a redemption attributable all or in part to New Purchase Payments is made in excess of the amount which may be redeemed free of charge, only the excess will be subject to a contingent deferred sales charge.

13. The contingent deferred sales charge is retained by SMA Life to reimburse it for the expenses incurred in connection with the distribution of the Contracts, including commissions, promotional costs, sales administration, and other sales-related expenses.

14. For assuming certain risks under the Contracts, SMA Life imposes a daily mortality and expense risk charge that equals an amount rate of 1.25% of the net asset value of each Subaccount. The mortality risks are that: (a) Annuitants under the Contracts may live longer as a group than had been anticipated in setting the annuity rates guaranteed in the Contracts; and (b) the annuitant death benefits might exceed the value of the Contracts. The expense risk is that the maximum charges permitted under the Contracts prove insufficient to cover the administrative costs incurred in regard to the Contracts. The approximate allocation of the mortality and expense risk charge is 0.80% for SMA Life's assumption of mortality risks and 0.45% for SMA Life's assumption of expense risks. Applicants represent that the level of the mortality and expense risk charge is guaranteed and will not increase.

15. If the charge for mortality and expense risk is insufficient to cover the actual cost of mortality experience and expense, SMA life will bear the loss. If the expenses are less than the amounts resulting from the charge, SMA Life will realize a profit. To the extent that this charge results in a profit to SMA Life, such profit may be used for any lawful purpose, including the payment of sales, distribution, and other expenses not covered by the contingent deferred sales charge.

Applicants' Legal Analysis and Conditions

1. Applicants request an exemption from sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to the extent any relief is necessary to permit the deduction from the Separate Account of the mortality and expense risk charge under the Contracts. Sections 26(a)(2)(C) and 27(c)(2), as herein pertinent, prohibit a registered unit investment trust and any depositor thereof or underwriter therefor from selling periodic payment plan certificates unless the proceeds of all payments (other than sales load) are deposited with a qualified bank as trustee or custodian and held under arrangements which prohibit any payment to the depositor or principal underwriter except a fee, not exceeding such reasonable amounts as the Commission may prescribe, for performing bookkeeping and other administrative services.

2. Applicants represent that the mortality and expense risk charge of 1.25% is within the range of industry practice for comparable annuity products. This representation is based on SMA Life's analysis of publicly available information about similar annuity products, and takes into account such factors as current charge levels, the existence of charge level guarantees, and guaranteed annuity rates. SMA Life will maintain at its administrative offices and make available to the Commission a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, its comparative survey of industry practice for mortality and expense risk charges.

3. Applicants acknowledge that revenues generated by the contingent deferred sales charge may be insufficient to cover the actual costs related to distribution of the Contracts. In such case, the costs will be paid from the assets of the general accounts of SMA Life. Such amounts will be derived, in part from gains from operations with respect to the Contracts, which may include any profit derived from purchase payments allocated to the fixed account of the Contract and from the mortality and expense risk charge. SMA Life has concluded that there is a reasonable likelihood that the proposed distribution financing arrangement will benefit the Separate Account and the Contract owners.

4. SMA Life also will maintain at its administrative offices and make available to the Commission a memorandum setting forth the basis for the conclusion that there is a reasonable likelihood that the Separate Account's distribution financing arrangements will benefit the Separate Account and the Contract owners.

5. SMA Life represents that the Separate Account will invest only in open-end management investment companies which undertake, in the event they adopt plans under rule 12b–1 under the 1940 Act to finance distribution expenses, to have such plans formulated and approved by the board of trustees (or directors), a majority of whom are not "interested persons" of such investment companies within the meaning of section 2(a)(19) of the 1940 Act.

Conclusion

For the reasons and for the facts set forth above, Applicants assert that the requested exemptions from sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to deduct the mortality and expense risk charge under the Contracts meet the standards in section 6(c) of the 1940 Act. Applicants assert that the requested exemptions are necessary and appropriate in the public interest, and are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–13638 Filed 6–9–92; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

[Docket 37554]

Order Adjusting the Standard Foreign Fare Level Index

The International Air Transportation Competition Act (IATCA), Public Law 96–192, requires that the Department, as successor to the Civil Aeronautics Board, establish a Standard Foreign Fare Level (SFFL) by adjusting the SFFL base periodically by percentage changes in actual operating costs per available seat-mile (ASM). Order 80–2–69 established the first interim SFFL, and Order 92–4–39 established the currently

effective two-month SFFL applicable through May 31, 1992.

In establishing the SFFL for the two-month period beginning June 1, 1992, we have projected non-fuel costs based on the year ended December 31, 1991 data, and have determined fuel prices on the basis of the lastest available experienced monthly fuel cost levels as reported to the Department.

By Order 92-6-4 fares may be increased by the following adjustment factors over the October 1979 level:

Atlantic	1.5606
Latin America	1.3997
Pacific	1.9866
Canada	1.4141

For further information contact: Keith A. Shangraw, (202) 366-2439.

By the Department of Transportation.

Dated: June 3, 1992.

Patrick V. Murphy,

Deputy Assistant Secretary for Policy and International Affairs.

[FR Doc. 92-13548 Filed 6-9-92; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

Subcommittee on Aircraft Safety Research, Engineering, and Development Advisory Committee

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-362; 5 U.S.C. app. I), notice is hereby given of a meeting of the Federal Aviation Administration (FAA) Subcommittee on Aircraft Safety of the Research, Engineering, and Development (R, E&D) Advisory Committee to be held Thursday and Friday, June 25-26, 1992, at 9 a.m. each day. The meeting will take place at the Federal Aviation Administration Technical Center, Atlantic City International Airport, New Jersey 08495, in the Headquarters Building Auditorium on the first floor.

The agenda for this meeting will include the following:

Thursday, June 25, 1992.

Opening Remarks—Chair and Executive Director.
Review of Final Agenda.
Introduction and Program Overview.
Aircraft Safety Research and Development Program Overview.
Cabin Fire Safety Subprogram.
Flight Safety Subprogram.
Airworthiness Subprogram.
Crashworthiness Subprogram.
Aging Aircraft Subprogram.
Propulsion-Fuel Safety Subprogram.
Catastrophic Failure Prevention Subprogram.

Friday, June 26, 1992:

Discussion of Program Briefings.
Subcommittee Organization.
Discussion of Action Items.
Discussion of Future Activities.
Chair's Summary.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements or obtain information should contact Mr. William J. Sullivan, Executive Director of the Subcommittee and Assistant Director, Aircraft Certification Service, AIR-3, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-9554.

Any member of the public may present a written statement to the Committee at any time by furnishing the Executive Director with 25 copies.

Issued in Washington, DC, on June 3, 1992.

Michael Gallagher,

Acting Director, Subcommittee on Aircraft Safety, Research, Engineering, and Development Advisory Committee.

[FR Doc. 92-13411 Filed 6-9-92; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project to construct a full interchange at the Chenoweth interchange in Wasco County, Oregon.

FOR FURTHER INFORMATION CONTACT: Elton Chang, Environmental Engineer, Federal Highway Administration, Equitable Center, suite 100, 530 Center Street N.E., Salem, Oregon 97301. Telephone: (503) 399-5749.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Oregon Department of Transportation, will prepare an environmental impact statement (EIS) on a proposal to construct an interchange on the Columbia River Highway (I-84) in the northwestern part of The Dalles in Wasco County, Oregon. The project would replace the existing half interchange (an off-ramp for southbound traffic and an on-ramp for northbound traffic) with a full interchange. The new interchange would provide connector roads to the historic Columbia River Highway (U.S. Highway 30) west of I-84 and to River Road, east of I-84. The interchange is intended to provide improved access to Port of The Dalles industrial property east of I-84 and to the proposed U.S. Forest Service Columbia River Gorge Interpretive Center, to be located north of the interchange and accessed by historic U.S. Highway 30.

Three alternatives are under consideration: (1) A northerly alternative located partially outside the urban growth boundary and within a General Management Area of the Columbia River Gorge National Scenic Area; (2) An alternative located just south of the other alternative, almost entirely within the urban growth boundary (thus, outside of the Columbia River Gorge National Scenic area); and (3) taking no action.

Information describing the proposed action and soliciting comments will be sent to the appropriate Federal, State, and local agencies. Public meetings have been and will be held during project development, and a public hearing will be held. Project scoping has been a continuous process, conducted in the technical, interagency and public meetings. No formal scoping meeting is planned.

To ensure that the full range of issues related to the proposed action is addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued on: June 2, 1992.

Elton H. Chang,

Environment Engineer, Oregon Division, Salem, Oregon.

[FR Doc. 92-13591 Filed 6-9-92; 8:45 am]

BILLING CODE 4910-22-M

UNITED STATES INFORMATION AGENCY

Public and Private Non-Profit Organizations in Support of International Education and Cultural Activities

AGENCY: United States Information Agency.

ACTION: Notice—request for proposals.

SUMMARY: The Office of Citizens Exchanges (E/P) announces a discretionary grants program in support of non-profit organizations in support of projects that link their international exchange interests with counterpart institutions/groups in other countries in ways supportive of the aims of the

Bureau of Educational and Cultural Affairs. Interested applicants are urged to read the complete **Federal Register** announcement before addressing inquiries to the Office or submitting their proposals.

DATES: Deadline for proposals: All copies must be received at the U.S. Information Agency by 5 p.m. Washington, DC time on Friday, August 28, 1992. Faxed documents will not be accepted, nor will documents postmarked on August 28, 1992, but received at a later date. It is the responsibility of each grant applicant to ensure that proposals are received by the above deadline. This action is effective from the publication date of this notice through August 28, 1992, for projects whose activities will begin between January 1, 1993, and June 30, 1993.

ADDRESSES: The original and 14 copies of the completed application, including required forms, should be submitted by the deadline to: U.S. Information Agency, REF: E/P Discretionary Grant Competition, Office of Grants Management (E/XE), Room 357, 301 4th Street SW., Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: Interested organizations/institutions must contact the Office of Citizens Exchanges, Bureau of Educational and Cultural Affairs, United States Information Agency, 301 4th Street SW., Washington, DC 20547, 202/619–5348, to request detailed application packets, which include award criteria additional to this announcement, all necessary forms, and guidelines for preparing proposals, including specific budget preparation information.

SUPPLEMENTARY INFORMATION: The Office of Citizen Exchanges of the United States Information Agency announces a program to encourage, through limited awards to non-profit institutions, increased private sector commitment to and involvement in international exchanges. Awarding of any and all grants is contingent upon the availability of funds.

The Office of Citizen Exchanges works with U.S. private sector non-profit organizations on cooperative international group projects that introduce American and foreign participants to each others' cultural and artistic traditions; social, economic, and political structures; and international interests. The Office supports international projects in the United States or overseas involving leaders or potential leaders in the following fields and professions: Leaders of cultural institutions, urban planners, jurists, specialized journalists (specialists in economics, business, culture, political analysis, international affairs), business professionals, environmental specialists, parliamentarians, educators, conflict management specialists, economic planning and other government officials.

The Office of Citizen Exchange strongly encourages the coordination of these activities with respected universities, professional associations, and major cultural institutions in the U.S. and abroad, but particularly in the U.S. Projects should be intellectual and cultural, not technical. Vocational training (an occupation other than one requiring a baccalaureate or higher academic degree; i.e., clerical work, auto maintenance, etc., and other occupations requiring less than two years of higher education) and technical training (special and practical knowledge of a mechanical or a scientific subject which enhances mechanical, narrowly scientific, or semi-skilled capabilities) are ineligible for support. In addition, scholarship programs are ineligible for support. Pursuant to the Bureau authorizing legislation, programs must maintain a non-political character, and should be balanced and representative of the diversity of American political, social and cultural life.

Proposals for projects taking place in the United States or overseas are welcome. The Office will place priority on those programs that involve the Maghreb and Middle East, (the highest priority), Latin America, South and Southeast Asia (especially India, Indonesia, Malaysia, Thailand, New Zealand, the Philippines, and Africa).

Since the Office has or is in the process of conducting specific competitions for Central and Eastern Europe and the newly independent state of the former Soviet Union, we will not accept proposals involving those regions in the following thematic areas: Public administration, business management, independent media development, and journalism training, and local government administration and municipal management. While not a priority for consideration in this competition, proposals for this entire region in other thematic areas may be considered on a case by case basis.

The Office does not support proposals limited to conferences or seminars (i.e., one to fourteen-day programs with plenary sessions, main speakers, panels, and a passive audience). It will support conferences only insofar as they are part of a project larger in duration and scope that is receiving USIA funding from this competition. USIA-supported projects may include internships; study tours; short-term, non-technical training; and extended, intensive workshops taking place in the United States or overseas.

The participation of a respected university or scholarly organization is decidedly advantageous. Further, the themes addressed in these exchange programs must be of long-term importance, rather than focused exclusively on current events or short-term issues. In every case, a substantial rationale must be presented as part of the proposal, one that clearly indicates the distinctive and important contribution of the overall project, including where applicable the expected yield of any associated conference.

No funding is available exclusively to send U.S. citizens to conferences or conference-type seminars overseas; neither is funding available for bringing foreign nationals to conferences or to routine professional association meetings in the United States.

Projects that duplicate what is routinely carried out by private sector and/or public sector operations will not be considered. USIS post consultation by applicants, *prior* to submission of proposals, is strongly recommended for all programs.

Creative Arts Grant Program

The Creative Arts Division (E/PA), Office of Citizen Exchange, invites proposals from U.S. non-profit organizations for exchanges of professionals in the following fields: Music, dance, theater, literature, visual arts, architecture, folk arts, crafts and folklore, museum exchanges, historical/cultural conservation/preservation, and arts management.

Proposals must include an international exchange of persons component involving cultural leaders and commentators, critics, administrators and professionals in the above mentioned fields. Proposed projects may operate either to or from the United States, preferably in both directions. E/PA seeks institutionally-based projects involving artists in the creation of their particular art forms. Priority consideration will be accorded to projects that provide for substantive exchanges among artistic creators. Proposals leading to institutional linkages will receive priority consideration in the review process. Arts management projects should center on hands-on, practical aspects of the field.

E/PA projects support USIS posts by providing: (a) Vehicles for professional interaction between arts/museum communities in the United States and other countries; (b) vehicles for creating

ongoing institutional linkages between American arts/museum organizations and their counterparts in other countries; and (c) vehicles for USIS officers to use for substantive contacts with key members/groups in their arts constituencies.

E/PA projects taking place in the United States operate as competitions in which participating USIS posts retain exclusive nomination prerogative of candidates for awards, while the American arts organizations retain selection prerogative of award-winners. Awards consist of travel and per diem expenses to attend the event or participate in the activity partially funded under the terms of the E/PA grant.

Projects to send American professionals to other countries must include assurances of quality, fairness and balance in the selection of participants.

Creative Arts Program Exclusions

E/PA does not accept proposals for the support of performing arts productions or tours, film or video production and/or festivals, independently-operating international competitions, community-level arts presentations or festivals for general audiences, the production or presentation of visual arts exhibits, or academic projects or programs. E/PA does not support conferences or seminars, or tours consisting exclusively of verbal presentations about the arts.

Additional Guidelines and Restrictions

Office of Citizen Exchanges grants are not given to support projects whose focus is limited to technical or vocational subjects, or for research projects, for youth or youth-related activities (participants' age under 25), for publications funding, for student and/or teacher/faculty exchanges, for film festivals and exhibits. Nor does this office provide scholarship or support for long-term (a semester or more) academic studies. Competitions sponsored by other Bureau offices are also announced in the Federal Register.

For projects that would begin after June 30, 1993, competition details will be announced in the Federal Register on or about December 1, 1992. Inquiries concerning technical requirements are welcome prior to submission of applications.

Application Requirements

Proposals must contain a narrative which includes a complete and detailed description of the proposed program activity as follows:

1. A brief statement of what the project is designed to accomplish, how it is consistent with the purposes of the USIA award program, and how it relates to USIA's mission.

2. A concise description of the project, spelling out complete program schedules and proposed itineraries, who the participants will be, where they will come from, and how they will be selected.

3. A statement of what follow-up activities are proposed, how the project will be evaluated, what groups, beyond the direct participants, will benefit from the project and how they will benefit.

4. A detailed three-column budget.

Funding and Budget Requirements for All Submissions

The Office of Citizen Exchanges requires co-funding with grantees in all projects. Proposals with cost sharing of less than 33 percent of the total project cost will be considered ineligible. Since USIA grant assistance constitutes only a portion of total project funding, proposals should list and provide evidence of other anticipated sources of support. Grant applications should demonstrate substantial financial and in-kind support using a three-column format that clearly displays cost-sharing support of proposed projects.

Funding assistance is limited to participant travel and per diem requirements with modest contributions to defray administrative costs (salaries, benefits, other direct and indirect costs), which for this year may not exceed 20 percent of the total funds requested. The grantee institution may wish to cost-share any of these expenses. Organizations with less than four years' experience in conducting international exchange programs are limited to $60,000 of USIA support, and their budget submissions should not exceed this amount. Grant proposals may not exceed $150,000 in the amount requested from USIA.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines established herein and in the application packet. Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will also be reviewed by the appropriate geographic area office, and the budget and contracts offices. Proposals may also be reviewed by the Agency's Office of General Counsel. Funding decisions are at the discretion of the Associate Director for Educational and Cultural Affairs. Final technical authority for grant awards resides with USIA's contracting officer.

Review Criteria

USIA will consider proposals based on the following criteria:

1. *Quality of Program Idea:* Proposal should exhibit originality, substance, rigor, and relevance to Agency mission.

2. *Institution Reputation/Ability/Evaluations:* Institutional grant recipients should demonstrate potential for program excellence and/or track record of successful programs, including responsible fiscal management and full compliance with all reporting requirements for past Agency grants (if any) as determined by USIA's Office of Contracts (M/KG). The Agency will consider the past performance of prior grantees and the demonstrated potential of new applicants.

3. *Project Personnel:* Personnel's thematic and logistical expertise should be relevant to the proposed program.

4. *Program Planning:* Detailed agenda and relevant work plan should demonstrate substantive rigor and logistical capacity.

5. *Thematic Expertise:* Proposal should demonstrate expertise in the subject area which guarantees an effective sharing of information.

6. *Cross-Cultural Sensitivity/Area Expertise:* Evidence of sensitivity to historical, linguistic, and other cross-cultural factors; relevant knowledge of geographic area should be evident.

7. *Ability to Achieve Program Objectives:* Objectives should be reasonable, feasible, and flexible. Proposal should clearly demonstrate how the grantee institution will meet the program's objectives.

8. *Multiplier Effect:* Proposed programs should strengthen long-term mutual understanding, to include maximum sharing of information and establishment of long-term institutional ties.

9. *Cost-Effectiveness:* The overhead and administrative components should be kept as low as possible and shall not exceed 20% of the total funds requested. All other items should be necessary and appropriate to achieve the program's objectives.

10. *Cost-Sharing:* Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

11. *Follow-on Activities:* Proposals should provide a plan for continued exchange activity (without USIA support) which insures that USIA-

supported programs are not isolated events.

12. *Project Evaluation:* Proposals should include a plan to evaluate the activity's success.

Technical Requirements

Proposals can only be accepted for review when they are fully in accord with the terms of this RFP, as well as with the application package.

Additional Guidance

The Office of Citizen Exchanges offers the following additional guidance to prospective applicants:

1. The Office of Citizen Exchanges encourages project proposals involving more than one country. However, single-country projects that are clearly defined and possess the potential for creating and strengthening continuing linkages between foreign and U.S. institutions are also welcome.

2. Proposals for bilateral programs are subject to review and comment by the USIS post in the relevant country, and pre-selected participants also will be subject to USIS post review.

3. Bilateral programs should clearly identify the counterpart organization and provide evidence of the organization's participation.

4. The Office of Citizen Exchanges will consider proposals for activities in other countries when USIS posts are consulted in the design of the proposed program and in the choice of the most suitable venues for such programs.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. Final awards cannot be made until funds have been fully appropriated by Congress, allocated and committed through internal USIA procedures.

Notification

All applicants will be notified of the results of the review process on or about December 1, 1992. Awarded grants will be subject to periodic reporting and evaluation requirements

Dated: June 8, 1992.

William P. Glade,

Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 92–13581 Filed 6–9–92; 8:45 am]

BILLING CODE 8230–01–M

Advisory Commission on Public Diplomacy Meeting

AGENCY: United States Information Agency.

ACTION: Notice for the Federal Register.

The United States Advisory Commission on Public Diplomacy will meet in room 600, 301 4th Street, SW. on June 11 from 10 a.m. to 12:30 p.m.

The meeting will be closed to the public from 11 a.m.–12:30 p.m. because it will involve discussion with Commission consultant Robert Chatten of classified information relating to radio and television broadcasting policies and operations of the U.S. Information Agency. (5 U.S.C. 552b(c)(1))

From 10:15 a.m. to 11 a.m. the Commission will meet in open session with Mr. George Jacobs, President, George Jacobs & Associates, Inc. for a discussion of shortwave and space-based technologies in international broadcasting.

Please call Gloria Kalamets, (202) 619–4468 for further information.

Dated: June 4, 1992.

Henry E. Catto,

Director.

[FR Doc. 92–13582 Filed 6–9–92; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 112
Wednesday, June 10, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:33 a.m. on Friday, June 5, 1992, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to a certain financial institution.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), concurred in by Director Stephen R. Steinbrink (Acting Comptroller of the Currency), Vice Chairman Andrew C. Hove, Jr., and Chairman William Taylor, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2) and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(9)(B).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Dated: June 6, 1992.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 92-13719 Filed 6-8-92; 8:58 am]

BILLING CODE 6714-01-M

FEDERAL ELECTION COMMISSION

DATES & TIME: Tuesday, June 16, 1992, 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26 U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Press Officer, Telephone: (202) 219-4155.

Delores Harris,

Administrative Assistant.

[FR Doc. 92-13812 Filed 6-8-92; 3:20 pm]

BILLING CODE 6715-01-M

FOREIGN CLAIMS SETTLEMENT COMMISSION

F.C.S.C. Meeting Notice No. 9-92—Addendum

Announcement in Regard to Commission Meetings and Hearings

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date, Time, and Subject Matter

Oral Hearing on Objection to Proposed Decision Issued on Claims Against Iran:

Wed., June 24, 1992 at 11:30 a.m.
—IR-0723—Michael B. Millar

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 601 D Street, NW., Washington, DC. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 601 D Street, NW., Room 10000, Washington, DC 20579. Telephone: (202) 208-7727.

Dated at Washington, D.C. on June 8, 1992.

Judith H. Lock,

Administrative Officer.

[FR Doc. 92-13808 Filed 6-8-92; 2:46 pm]

BILLING CODE 4410-01-M

Corrections

Federal Register
Vol. 57, No. 112
Wednesday, June 10, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-940-4214-11; CAS 1037, CAS 2694, CAS 058127, CAS 058168, CAS 068455, CAS 073664, CAS 080236, CACA 7002, CACA 7005, CACA 7007, CACA 7012, CACA 7013, CACA 7014, CACA 7015, CACA 7017, CACA 7558, CACA 7579]

Proposed Continuation of Withdrawals; California

Correction

In notice document 92-4211 beginning on page 6521 in the issue of Tuesday, February 25, 1992, make the following corrections:

1. On page 6522, in the third column, in the first line, the comma should be deleted after "NW¼".

2. On page 6523, in the second column, in the land description, under "Sec. 23," in the second line, after"W½E½" insert a comma and "E¼SE¼" should read "SE¼SE¼".

3. On the same page, in the same column, in the land description, under "Sec. 24," in the first line, after "inclusive, N½" insert a comma.

BILLING CODE 1505-01-D

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H-225D]

Occupational Exposure to Formaldehyde

Correction

In rule document 92-11911 beginning on page 22290 in the issue of Wednesday, May 27, 1992, make the following correction:

On page 22308, in the table, in the first column, delete the ninth line, and in the second column, the fifth line should follow at the end of "facepiece." in the fourth line. This table should read exactly as the table on page 22311.

BILLING CODE 1505-01-D

SECURITY AND EXCHANGE COMMISSION

[Release No. 34-30702; File No. SR-BSE-91-03]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Order Granting Approval, and Filing of Amendments and Order Granting Accelerated Approval to Proposed Rule Change Relating to Amendments to the Arbitration Code

Correction

In notice document 92-11863 beginning on page 21680 in the issue of Thursday, May 21, 1992, the file number should read as set forth above.

BILLING CODE 1505-01-D

SECURITY AND EXCHANGE COMMISSION

[Release No. 34-30705; International Series Release No. 387; File No. SR-PHLX-92-10]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to the Eligibility of Registered Representatives to Sell Foreign Currency Options

Correction

In notice document 92-11868 beginning on page 21688 in the issue of Thursday, May 21, 1992, the first release number should read as set forth above.

BILLING CODE 1505-01-D

federal register

Wednesday
June 10, 1992

Part II

Office of Personnel Management

48 CFR Chapter 21

Federal Employees' Group Life Insurance Program; Acquisition Regulations; Proposed Rule

OFFICE OF PERSONNEL MANAGEMENT

48 CFR Chapter 21

RIN 3206-AE04

Federal Employees' Group Life Insurance Program; Acquisition Regulation

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management is proposing to establish Chapter 21 in Title 48 of the Code of Federal Regulations (Parts 2100–2199). This regulation describes the method by which the Office of Personnel Management (OPM) implements and supplements the Federal Acquisition Regulation (FAR) for the Federal Employees' Group Life Insurance (FEGLI) Program. OPM is proposing this regulation to identify basic and significant acquisition policies unique to the FEGLI Program. The regulation would be referred to as the Federal Employees' Group Life Insurance Program Acquisition Regulation (LIFAR).

DATES: Comments must be received on or before July 10, 1992.

ADDRESSES: Written comments may be sent to Andrea S. Minniear, Assistant Director for Retirement and Insurance Policy, Retirement and Insurance Group, Office of Personnel Management, P.O. Box 57, Washington, DC 20044, or delivered to OPM, room 4351, 1900 E Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Abby L. Block, (202) 606–0191.

SUPPLEMENTARY INFORMATION: OPM is proposing this regulation to provide direction and uniformity in the agency's procurement of life insurance coverage for Federal employees, retirees, and survivors and to assist life insurance carriers and other interested parties in understanding OPM's application of the Federal Acquisition Regulation (FAR) (48 CFR chapter 1) to the FEGLI Program. The FAR system was established for the codification and publication of uniform policies and procedures for acquisition by all executive agencies. The FAR system consists of those Government-wide acquisition regulations in 48 CFR chapter 1 and agency acquisition regulations in subsequent chapters issued by individual agencies. OPM is now proposing the LIFAR, established as chapter 21 within title 48 of the Code of Federal Regulations, to describe the method by which it will implement and supplement the FAR for the specific purpose of acquiring and administering contracts with life insurance carriers in the FEGLI Program.

The fundamental principle underlying the LIFAR is that the FAR is applicable in general to contracts negotiated under the FEGLI Program although specific application of the FAR necessarily differs from its application to other procurement contracts because of the distinct nature of the service procured, i.e., life insurance coverage. Indeed, it is well understood that a number of provisions of the FAR would be impossible to apply literally in a practical manner to a life insurance contract. In accordance with FAR subpart 1.3, the LIFAR does not unnecessarily repeat, paraphrase, or otherwise restate material contained in the FAR.

Therefore, the LIFAR is not, by itself, a complete document as it must be used in conjunction with the FAR. Where the FAR has no practical applicability to the FEGLI Program, and attempts to apply a given provision would be counterproductive and inconsistent with the intent of the FAR, specific notation is provided along with the authority for the determination of nonapplicability. Where a FAR part or subpart is adequate for use without further OPM implementation or supplementation, or is clearly irrelevant, no mention is cited in the LIFAR. Thus, the order of use is (1) FAR; (2) LIFAR. The LIFAR is intended to identify basic and significant acquisition policies unique to the FEGLI Program.

It is also important to note that the LIFAR does not replace, incorporate, or supplement regulations found at 5 CFR part 870 which provide the substantive policy guidance for administration of the life insurance program under 5 U.S.C. chapter 87.

LIFAR subpart 2115.9 provides a profit opportunity for the contractor in the form of a service charge which may be negotiated in lieu of the risk charge that OPM has provided in the past. The service charge represents that element of the total remuneration that contractors may receive for contract performance over and above allowable costs (FAR 15.901). It does not guarantee a profit but is intended to be used as an incentive to stimulate efficient contract performance and as a guide to agencies entering negotiations. Thus, the proposed factors are intended to give structure to the process of determining a profit prenegotiation objective and to provide justification and documentation of the profits paid. The service charge formula allows for appropriate increases over time based on contractor performance.

While OPM was developing the LIFAR, Congress passed the Omnibus Budget Reconciliation Act of 1990. Section 11301 of title XI of this Act, now codified at 26 U.S.C. 848, prescribes new rules for the capitalization of insurance policy acquisition expenses (Deferred Acquisition Cost "DAC" tax). Since the DAC tax, as it relates to the FEGLI Program, is a tax on assets rather than net profit, it is an allowable contract expense under Government contract cost principles (see 2131.205–41(c)). For purposes of the LIFAR, the DAC tax includes the tax on additional premium remitted to the contractor to meet its DAC tax obligations.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation implements and supplements the Federal Acquisition Regulation, which has already been established for entities contracting with the Federal Government.

List of Subjects in 48 CFR Chapter 21

Administrative practice and procedure, Government contracts, Life insurance.

Office of Personnel Management.

Constance Berry Newman,

Director.

Accordingly, OPM proposes to amend title 48, Code of Federal Regulations, by adding chapter 21 (parts 2100–2199) to read as follows:

CHAPTER 21—OFFICE OF PERSONNEL MANAGEMENT, FEDERAL EMPLOYEES GROUP LIFE INSURANCE ACQUISITION REGULATION

SUBCHAPTER A—GENERAL

Part

SUBCHAPTER B—ACQUISITION PLANNING

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

SUBCHAPTER A—GENERAL

PART 2101—FEDERAL ACQUISITION REGULATIONS SYSTEM

Subpart 2101.1—Purpose, Authority, Applicability and Issuance

Subpart 2101.3—Agency Acquisition Regulation (LIFAR)

Authority: 5 U.S.C. 8716; 40 U.S.C. 486(c); 48 CFR 1.301.

Subpart 2101.1—Purpose, Authority, Applicability, and Issuance

2101.101 Purpose.

(a) This subpart establishes chapter 21, Office of Personnel Management Federal Employees' Group Life Insurance Acquisition Regulation, within title 48, the Federal Acquisition Regulation System, of the Code of Federal Regulations. The short title of this regulation shall be LIFAR.

(b) The purpose of the LIFAR is to implement and supplement the Federal Acquisition Regulation (FAR) specifically for acquiring and administering a contract, or contracts, for life insurance under the Federal Employees' Group Life Insurance (FEGLI) Program.

2101.102 Authority.

(a) The LIFAR is issued by the Director of the Office of Personnel Management in accordance with the authority of 5 U.S.C. chapter 87 and other applicable law and regulation.

(b) The LIFAR does not replace or incorporate regulations found at 5 CFR part 870, et seq., which provide the substantive policy guidance for administration of the FEGLI Program under 5 U.S.C. chapter 87. The contractor should follow the following order of precedence in contracting with OPM under the FEGLI Program:

(1) 5 U.S.C. chapter 87.
(2) 5 CFR part 870, et seq.
(3) 48 CFR chapter 1.
(4) 48 CFR chapter 21.
(5) The FEGLI Program contract.

2101.103 Applicability.

The FAR is generally applicable to contracts negotiated in the FEGLI Program pursuant to 5 U.S.C. chapter 87. The LIFAR implements and supplements the FAR where necessary to identify basic and significant acquisition policies unique to the FEGLI Program.

2101.104 Issuance.

2101.104–1 Publication and code arrangement.

(a) The LIFAR and its subsequent changes are published in—

(1) Daily issues of the **Federal Register**; and

(2) Cumulative form of the Code of Federal Regulations.

(b) The LIFAR is issued as chapter 21 of title 48 of the Code of Federal Regulations.

2101.104–2 Arrangement of regulation.

(a) *General.* The LIFAR conforms with the arrangement and numbering system prescribed by FAR 1.104. However, when a FAR part or subpart is adequate for use without further OPM implementation or supplementation, there will be no corresponding LIFAR part, subpart, etc. The LIFAR is to be used in conjunction with the FAR and the order for use is:

(1) FAR;
(2) LIFAR.

(b) *Citation.* (1) In formal documents, such as legal briefs, citation of chapter 21 material that has been published in the **Federal Register** will be to title 48 of the Code of Federal Regulations.

(2) In informal documents, any section of chapter 21 may be identified as "LIFAR" followed by the section number.

Subpart 2101.3—Agency Acquisition Regulation (LIFAR)

2101.301 Policy.

(a) Procedures, contract clauses, and other aspects of the acquisition process for contracts in the FEGLI Program shall be consistent with the principles of the FAR. Changes to the FAR that are otherwise authorized by statute or applicable regulation, dictated by the practical realities associated with certain unique aspects of life insurance or necessary to satisfy specific needs of the Office of Personnel Management, to the extent not otherwise regulated in the FAR, shall be implemented as amendments to the LIFAR and published in the **Federal Register**, or as deviations to the FAR in accordance with FAR subpart 1.4.

(b) Internal procedures, instructions, and guides which are necessary to clarify or implement the LIFAR within OPM may be issued by agency officials designated by the Director, OPM. Normally, such designations will be specified in the OPM Administrative Manual, which is routinely available to agency employees and will be made available to interested outside parties upon request. Clarifying or implementing procedures, instructions, and guides issued pursuant to this section of the LIFAR must:

(1) Be consistent with the policies and procedures contained in this regulation as implemented and supplemented from time to time; and

(2) Follow the format, arrangement, and numbering system of this regulation to the extent practicable.

PART 2102—DEFINITIONS OF WORDS AND TERMS

Subpart 2102.3—Definitions of FEGLI Terms

Authority: 5 U.S.C. 8716; 40 U.S.C. 486(c); 48 CFR 1.301.

Subpart 2102.3—Definitions of FEGLI Terms

2102.370 Scope of subpart.

This subpart defines words and terms commonly used in this regulation.

2102.371 Definitions.

In this chapter, unless otherwise indicated, the following terms have the meaning set forth in this subpart.

Contract means a policy or policies of group life and accidental death and dismemberment insurance to provide the benefits specified by 5 U.S.C. Chapter 87.

Contractor means an insurance company contracted to provide the

benefits specified by 5 U.S.C. Chapter 87.

Director means the Director of the Office of Personnel Management.

Employees' Life Insurance Fund means the trust fund established under 5 U.S.C. 8714.

FEGLI Program means the Federal Employees' Group Life Insurance Program.

Fixed price with limited cost redetermination plus fixed fee contract means a contract which provides for:

(1) A fixed price during the contract year with a cost element that is adjusted at the end of the contract term based on costs incurred under the contract; and,

(2) A profit or fee that is fixed at the beginning of the contract term. The amount of adjustment for costs is limited to the amount in the Employees' Life Insurance Fund. The fee will be in the form of either a risk charge or a service charge.

Insurance company, as provided in 5 U.S.C. 8709, means a company licensed to transact life and accidental death and dismemberment insurance under the laws of all the States and the District of Columbia. It must have in effect, on the most recent December 31 for which information is available to the Office of Personnel Management, an amount of employee group life insurance equal to at least 1 percent of the total amount of employee group life insurance in the United States in all life insurance companies.

OPM means the Office of Personnel Management.

Reinsurer means a company that reinsures portions of the total amount of insurance under the contract as specified in 5 U.S.C. 8710 and is not an agent or representative of the contractor.

Subcontract means a contract entered into by any subcontractor that furnishes supplies or services for performance of a prime contract under the FEGLI Program. Except for the purpose of FAR Subpart 22.8—Equal Employment Opportunity, the term "subcontract" does not include a contract with a reinsurer under the FEGLI Program.

Subcontractor means any supplier, distributor, vendor, or firm that furnishes supplies or services to or for a prime contractor under the FEGLI contract. Except for the purpose of FAR Subpart 22.8—Equal Employment Opportunity, the term "subcontractor" does not include reinsurers under the FEGLI Program.

PART 2103—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Subpart 2103.70—Misleading, Deceptive, or Unfair Advertising

Sec.
2103.7001 Policy.
2103.7002 Contract clause.

Authority: 5 U.S.C. 8716; 40 U.S.C. 486(c); 48 CFR 1.301.

Subpart 2103.70—Misleading, Deceptive, or Unfair Advertising

2103.7001 Policy.

(a) OPM prepares and makes available to enrolled Federal employees a booklet describing the provisions of the FEGLI Program which includes information about eligibility, enrollment, and general procedures. The booklet also operates as a certification of the employee's enrollment in the FEGLI Program. Because all necessary information is made available by OPM, advertising directed specifically at Federal employees and life insurance agent contacts with Federal employees for the purpose of selling FEGLI coverage are prohibited.

(b) The contractor is prohibited from making incomplete, incorrect comparisons or using disparaging or minimizing techniques to compare its other products or services to the benefits of the FEGLI Program. The contractor will use its best efforts to assure that its life insurance agents are aware of and abide by this prohibition.

(c) The contractor's failure to conform to the requirements of this subpart shall be considered by OPM in the determination of the service charge prenegotiation objective.

2103.7002 Contract clause.

The clause at 2152.203–70 shall be inserted in all FEGLI Program contracts and in all subcontracts as defined at 2102.371.

PART 2104—ADMINISTRATIVE MATTERS

Subpart 2104.7—Contractor Records Retention

Sec.
2104.703 Policy.
2104.705 Specific retention periods.

Authority: 5 U.S.C. 8716; 40 U.S.C. 486(c); 40 CFR 1.301.

Subpart 2104.7—Contractor Records Retention

2104.703 Policy.

In view of the unique payment schedules of FEGLI contracts and the compelling need for records retention periods sufficient to protect the Government's interest, contractors shall be required to maintain records for periods determined in accordance with the provisions of FAR 4.703(b)(1).

2104.705 Specific retention periods.

Unless the contracting officer determines that there exists a compelling reason to include only the contract clause specified by FAR 52.215–2, "Audit-Negotiation," the contracting officer shall insert the clause at 2152.204–70 in all FEGLI Program contracts.

SUBCHAPTER B—ACQUISITION PLANNING

PART 2105—PUBLICIZING CONTRACT ACTIONS

Authority: 5 U.S.C. 8716; 40 U.S.C. 486(c); 48 CFR 1.301.

Subpart 2105.70—Applicability

2105.7001 Applicability.

FAR part 5 has no practical application to the FEGLI Program because OPM does not issue solicitations. Eligible contractors (i.e., qualified life insurance companies) are identified in accordance with 5 U.S.C. 8709.

PART 2106—COMPETITION REQUIREMENTS

Authority: 5 U.S.C. 8716; 40 U.S.C. 486(c); 48 CFR 1.301.

Subpart 2106.70—Applicability

2106.7001 Applicability.

FAR part 6 has no practical application to the FEGLI Program in view of the statutory exception provided by 5 U.S.C. 8709.

PART 2109—CONTRACTOR QUALIFICATIONS

Authority: 5 U.S.C. 8716; 40 U.S.C. 486(c); 48 CFR 1.301.

Subpart 2109.70—Minimum standards for FEGLI contractors

2109.7001 Minimum standards for FEGLI contractors.

(a) The contractor must meet the requirements of chapter 87 of title 5, United States Code; parts 870, 871, 872, 873, and 874 of title 5, Code of Federal Regulations; chapter 1 of title 48, Code of Federal Regulations, and the standards in this subpart. The contractor shall continue to meet these and the following statutory and regulatory requirements while under contract with OPM. Failure to meet these requirements and standards is

cause for OPM's termination of the contract in accordance with part 2149 of this chapter.

(b) The contractor must actually be engaged in the life insurance business and must be licensed to transact life and accidental death and dismemberment insurance under the laws of all the States and the District of Columbia at the time of application.

(c) The contractor must not be a Federal, State, local or territorial government entity.

(d) The contractor must not be debarred, suspended or ineligible to participate in Government contracting or subcontracting for any reason.

(e) The contractor must keep statistical and financial records regarding the FEGLI Program separate from that of all its other lines of business.

(f) The contractor must enter into rate redeterminations as deemed necessary by OPM.

(g) The contractor must furnish such reasonable reports as OPM determines are necessary to administer the FEGLI Program.

(h) The contractor must establish and maintain a system of internal control that provides reasonable assurance that:

(1) The payment of claims and other expenses is in compliance with legal, regulatory, and contractual guidelines;

(2) Funds, property, and other FEGLI assets are safeguarded against waste, loss, unauthorized use, or misappropriation;

(3) Revenues and expenditures applicable to FEGLI operations are properly recorded and accounted for to permit the preparation of reliable financial reporting and to maintain accountability over assets; and,

(4) Data are accurately and fairly disclosed in all reports required by OPM.

(i) The contractor must permit representatives of OPM and of the General Accounting Office to audit and examine records and accounts pertaining to the FEGLI Program at such reasonable times and places as may be designated by OPM or the General Accounting Office.

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

PART 2114—SEALED BIDDING

Authority: 5 U.S.C. 8716; 40 U.S.C. 486(c); 48 CFR 1.301.

Subpart 2114.70—Applicability

2114.7001 Applicability.

FAR part 14 has no practical application to the FEGLI Program in view of the statutory exemption provided by 5 U.S.C. 8709, 8714a, 8714b, and 8714c.

PART 2115—CONTRACTING BY NEGOTIATION

Subpart 2115.1—General Requirements for Negotiation

Sec.

2115.170 Negotiation authority.

Subpart 2115.4—Solicitation and Receipt of Proposals and Quotations

2115.401 Applicability.

Subpart 2115.6—Source Selection

2115.602 Applicability.

Subpart 2115.8—Price Negotiation

2115.802 Policy.

2115.802-70 Contractor investment of FEGLI funds.

2115.802-71 Investment income clause.

Subpart 2115.9—Profit

2115.902 Policy.

2115.905 Profit analysis factors.

Authority: 5 U.S.C. 8716; 40 U.S.C. 486(c); 48 CFR 1.301.

Subpart 2115.1—General Requirements for Negotiation

2115.170 Negotiation authority.

The authority to negotiate FEGLI contracts is conferred by 5 U.S.C. 8709.

Subpart 2115.4—Solicitations and Receipt of Proposals and Quotations

2115.401 Applicability.

(a) FAR subpart 15.4 has no practical application to the FEGLI Program because OPM does not issue solicitations.

(b) OPM will announce any opportunities to submit applications to provide life insurance through the FEGLI Program in insurance industry periodicals and other publications as deemed appropriate by OPM. The announcement will contain information on the address to which requests for application packages should be submitted and on deadline dates for submission of completed applications.

(c) Eligible contractors (i.e., qualified life insurance companies) are identified in accordance with 5 U.S.C. 8709. Offerors voluntarily come forth in accordance with procedures provided in 2115.602.

(d) OPM may approve one or more life insurance companies that, in its judgement, are best qualified to provide life insurance coverage to Federal enrollees.

Subpart 2115.6—Source Selection

2115.602 Applicability.

(a) FAR subpart 15.6 has no practical application to the FEGLI Program because prospective contractors (insurance companies) are considered for inclusion in the FEGLI Program in accordance with criteria provided in 5 U.S.C. chapter 87, LIFAR 2109.7001, and the following:

(b) Applications must be signed by an individual with legal authority to enter into a contract on behalf of the company of the dollar level of claims and expenses anticipated.

(c) Applications will be reviewed for evidence of substantial compliance in the following areas:

(1) *Management*: Stable management with experience pertinent to the life insurance industry and, in particular, large group management; sufficient operating experience to enable OPM to evaluate past and expected future performance.

(2) *Marketing*: Past ability to attract and retain large group contracts; steady or increasing amount of group life insurance in force.

(3) *Legal expertise*: Demonstrated competence in researching, compiling, and implementing various Federal and State laws that may impact payment of benefits; ability to defend legal challenges to payment of benefits.

(4) *Financial condition*: Establishment of firm budget projections and demonstrated success in keeping costs at or below those projections on a regular basis; evidence of the ability to sustain operations in the future and to meet obligations under the contract OPM might enter into with the company; adequate reserve levels; assets exceeding liabilities.

(5) *Establishment of Office:* Ability to establish an administrative office capable of assessing, tracking, and paying claims.

(6) *Internal Controls:* Ability to establish and maintain a system of internal control that provides reasonable assurance that the payment of claims and other expenses will be in compliance with legal, regulatory, and contractual guidelines; funds, property, and other FEGLI assets will be safeguarded against waste, loss, unauthorized use, or misappropriation; and revenues and expenditures applicable to FEGLI operations will be properly recorded and accounted for to permit the preparation of timely and accurate financial reporting and to maintain accountability over assets.

Subpart 2115.8—Price Negotiation

2115.802 Policy.

Pricing of FEGLI Program premium rates is governed by 5 U.S.C. 8707, 8708, 8711, 8714a, 8714b, and 8714c. FAR subpart 15.8 shall be implemented by applying cost analysis policies and procedures. To the extent that actuarial estimates are used for pricing, such estimates will be deemed acceptable and if inaccurate, do not constitute defective pricing.

2115.802–70 Contractor investment of FEGLI funds.

(a) The contractor is required to invest and reinvest all FEGLI funds on hand including any attributable to the special Contingency Reserve until needed to discharge promptly the obligations incurred under the contract. Within the constraints of safety and liquidity of investments, the contractor shall seek to maximize investment income.

(b) The contractor is required to credit income earned from its investment of FEGLI funds to the FEGLI Program. Thus, the contractor must be able to allocate investment income to the FEGLI Program in an appropriate manner. If the contractor fails to invest funds on hand, properly allocate investment income, or credit any income due the contract, for whatever reason, it shall return or credit any investment income lost to OPM or the FEGLI Program, retroactive to the date that such funds should have been originally invested in accordance with 2152.215–70.

(c) Investment income is the net amount earned by the contractor after deducting reasonable, necessary, and properly allocated investment expenses.

2115.802–71 Investment income clause.

The contracting officer shall insert the clause at 2152.215–70 in all FEGLI Program contracts.

Subpart 2115.9—Profit

2115.902 Policy.

(a) *Risk charge.* (1) Section 8711(d) of title 5, United States Code, provides for payment of a risk charge to FEGLI contractors as compensation for the risk assumed under the FEGLI Program. It is appropriate to pay such a charge when substantial risk is borne by the contractor; that is, when the balance in the Employees' Life Insurance Fund is no larger than five times annual claims.

(2) The risk charge is determined by agreement between the contractor and OPM. The amount of risk charge shall be specified in the contract.

(b) *Waiver of the risk charge.* (1) When the Fund balance is greater than five times annual claims, OPM and the contractor may agree that the contractor will relinquish the risk charge in favor of a profit opportunity in the form of a service charge for the contractor. The service charge so determined shall be the total service charge that may be negotiated for the contract and shall encompass any service charge (whether entitled service charge, profit, fee, contribution to surpluses, etc.) that may have been negotiated by the prime contractor with any subcontractor. At no time may both a risk charge and a service charge be paid for the same portion of a policy year.

(2) Once agreement to relinquish the risk charge is made, the agreement may not be cancelled unless OPM and the contractor mutually agree to reinstitute payment of a risk charge; or unless the Fund balance falls below the level defined in 2115.902(a) and 30 days notice of cancellation is provided; or unless the contractor or OPM provide notice of cancellation for any reason 1 year prior to the date cancellation is sought.

(c) Any profit prenegotiation objective (service charge) will be determined on the basis of a weighted guidelines structured approach.

2115.905 Profit analysis factors.

(a) The OPM contracting officer will apply a weighted guidelines method when developing the prenegotiation objective (service charge) for the FEGLI contract. In accordance with the factors defined in FAR 15.905–1, OPM will apply the appropriate weights derived from the ranges specified in paragraph (b) of this section and will determine the prenegotiation objective based on the contractor's Basic and Family Optional insurance claims paid in the previous contract year.

(1) *Contractor performance.* OPM will consider such elements as the accurate and timely processing of benefit claims, the volume and validity of complaints received by OPM, effectiveness of internal controls systems in place, the timeliness and adequacy of reports on operations, and responsiveness to OPM offices, enrollees, beneficiaries, and Congress as measures of economical and efficient contract performance. This factor will be judged apart from the contractor's basic responsibility for contract compliance and will be a measure of the extent and nature of the contractor's contribution to the FEGLI Program through the application of managerial expertise and effort. Evidence of effective contract performance will receive a plus weight, and poor performance or failure to comply with contract terms and conditions a zero weight. Innovations of benefit to the FEGLI Program will generally receive a plus weight; documented inattention or indifference to effective operations, a zero weight.

(2) *Contract cost risk.* OPM will evaluate the contractor's risk annually in relation to the amount in the Employees' Life Insurance Fund and will evaluate this factor accordingly.

(3) *Federal socioeconomic programs.* OPM will consider documented evidence of successful, contractor-initiated efforts to support such Federal socioeconomic programs as drug and substance abuse deterrents, and other concerns of the type enumerated in FAR 15.905–1(c) as a factor in negotiating profit. This factor will be related to the quality of the contractor's policies and procedures and the extent of unusual effort or achievement demonstrated. Evidence of effective support of Federal socioeconomic programs will result in a plus weight; indifference to Federal socioeconomic programs will result in a zero weight; and only deliberate failure to provide opportunities to persons and organizations that would benefit from these programs will result in a negative weight.

(4) *Capital investments.* This factor is generally not applicable to FEGLI Program contracts because facilities capital cost of money may be an allowable administrative expense. Generally, this factor shall be given a weight of zero. However, special purpose facilities or investment costs of direct benefit to the FEGLI Program that are not recoverable as allowable or allocable administrative expenses may be taken into account in assigning a plus weight.

(5) *Cost Control.* This factor is based on the contractor's previously demonstrated ability to perform effectively and economically. In addition, consideration will be given to measures taken by the contractor that result in productivity improvements and other cost containment accomplishments that will be of future benefit to the FEGLI Program. Examples are containment of costs associated with processing claims; success at preventing waste, loss, unauthorized use, or misappropriation of FEGLI assets; and success at limiting and recovering erroneous benefit payments.

(6) *Independent Development.* Consideration will be given to independent contractor-initiated efforts, such as the development of a unique and enhanced customer support system, that are of demonstrated value to the FEGLI Program and for which developmental costs have not been recovered directly or indirectly through allowable or allocable administrative expenses. This

factor will be used to provide additional profit opportunities based upon an assessment of the contractor's investment and risk in developing techniques, methods, practices, etc., having viability to the Program at large. Improvements and innovations recognized and rewarded under any other profit factor cannot be considered.

(b) The weight ranges for each factor to be used in the weighted guidelines approach are set forth below:

Profit factor	Weight ranges
1. Contractor performance	0 to +.0005.
2. Contract cost risk	.000001 to +.00001.
3. Federal socioeconomic programs.	−.00003 to +.00003.
4. Capital investments	0 to +.00001.
5. Cost control	−.0002 to +.0002.
6. Independent development.	0 to +.00003.

PART 2116—TYPES OF CONTRACTS

Subpart 2116.1—Selecting Contract Types

Sec.
2116.105 Solicitation provisions.

Subpart 2116.2—Fixed-Price Contracts

2116.270 FEGLI Program contracts.

2116.270–1 Contract clause.

2116.271 Fixed-Price with limited cost redetermination plus fixed fee contract.

2116.271–1 Contract clauses.

Authority: 5 U.S.C. 8709; 40 U.S.C. 486(c); 48 CFR 1.301.

SUBPART 2116.1—SELECTING CONTRACT TYPES

2116.105 Solicitation provisions.

FAR 16.105 has no practical application because the statutory provisions of 5 U.S.C. chapter 87 obviate the issuance of solicitations.

Subpart 2116.2—Fixed-Price Contracts

2116.270 FEGLI Program contracts.

FEGLI Program contracts will be fixed price with limited cost redetermination plus fixed fee. The premium to the contractor will be based on an estimate of benefits and administrative costs, plus the fixed service or risk charge, and will be redetermined annually. Claims costs, including benefits and administrative expenses, in excess of premiums will be paid up to the amount in the Employees' Life Insurance Fund. Payment for costs exceeding the amount in the Fund are the responsibility of the contractor and reinsurers. The fee is fixed at the inception of each contract year. The fee does not vary with the actual costs, but may be adjusted as a result of changes in the work to be performed under the contract. The fee will be in the form of either a risk charge or a service charge.

(a) *Risk charge.* The risk charge will be determined as prescribed in 5 U.S.C. 8711(d) and paragraph 2115.902(a)(2) of this subchapter. It will consist of a negotiated amount which will reflect the risk assumed by the contractor and the reinsurers and may be adjusted as a result of increased or decreased risk under the contract. When the applicable fee is a risk charge, no service charge shall be payable for the same period of time.

(b) *Service charge.* The amount of the service charge will be determined using a weighted guidelines structured approach in accordance with 2115.905 and negotiated with the contractor at the beginning of the contract term. When the applicable fee is a service charge, no risk charge will be paid for the same portion of a policy year in which a service charge is paid.

2116.270–1 Contract clause.

The clause at 2152.216–70 shall be inserted in all FEGLI Program contracts.

2116.271 Fixed price with limited cost redetermination plus fixed fee contract.

2116.271–1 Contract clauses.

(a) The clause at 2152.216–71 shall be inserted in all FEGLI Program contracts when a risk charge is negotiated.

(b) The clause at 2152.216–72 shall be inserted in all FEGLI Program contracts when a service charge is negotiated.

SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

PART 2122—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

Authority: 5 U.S.C. 8709; 40 U.S.C. 486(c); 40 CFR 1.301.

Subpart 2122.1—Basic Labor Policies

2122.170 Contract clause.

The clause at 2152.222–70 shall be inserted in all FEGLI Program contracts.

PART 2124—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

Subpart 2124.70—Protection of Individual Privacy

Sec.
2124.7001 Policy.
2124.7002 Contract clause.

Authority: 5 U.S.C. 8709; 40 U.S.C. 486(c); 40 CFR 1.301.

Subpart 2124.70—Protection of Individual Privacy

2124.7001 Policy.

Records retained by FEGLI contractors on Federal insureds and members of their families serve the contractors' own commercial function of paying FEGLI claims and are not maintained to accomplish an agency function of OPM. Consequently, the records do not fall within the provisions of the Privacy Act. Nevertheless, OPM recognizes the need for the contractors to keep certain records confidential. The clause at 2152.224–70 addresses this concern.

2124.7002 Contract clause.

The clause at 2152.224–70 shall be inserted in all FEGLI Program contracts.

PART 2129—TAXES

Authority: 5 U.S.C. 8709; 40 U.S.C. 486(c); 40 CFR 1.301.

Subpart 2129.3—State and Local Taxes

2129.370 Application of State and local taxes to FEGLI contractors.

(a) 5 U.S.C. 8714(c)(1) prohibits the imposition of taxes, fees, or other monetary payment, directly or indirectly, on FEGLI premiums by any State, the District of Columbia, the Commonwealth of Puerto Rico, or any political subdivision or governmental authority of those entities.

(b) Paragraph (a) of this section shall not be construed to exempt the contractor from the imposition, payment, or collection of a tax, fee, or other monetary payment on the net income or profit accruing to or realized by it from business conducted under the FEGLI Program if the tax, fee, or payment is applicable to a broad range of business activity.

SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

PART 2131—CONTRACT COST PRINCIPLES AND PROCEDURES

Subpart 2131.2—Contracts With Commercial Organizations

Sec.
2131.200 Scope of subpart.
2131.201–70 FEGLI Program credits.
2131.203–70 FEGLI General and Administrative (G&A) expenses.
2131.205 Selected costs.
2131.205–41 Taxes.
2131.205–70 FEGLI public relations and advertising costs.
2131.205–71 FEGLI bad debts.
2131.205–72 FEGLI compensation for personal services.

Sec.
2131.205–73 Selling costs.
2131.205–74 Trade, business, technical and professional activity costs.
2131.205–75 FEGLI and nonrecurring costs.
2131.205–76 Major subcontractor service charge.
2131.205–77 Reinsurer administrative expense costs.

Authority: 5 U.S.C. 8709; 40 U.S.C. 486(c); 40 CFR 1.301.

Subpart 2131.2—Contracts With Commercial Organizations

2131.200 Scope of subpart.

The cost principles under this subpart apply to all FEGLI Program contracts.

2131.201–70 FEGLI Program credits.

The provisions of FAR 31.201–5 shall apply to income, rebates and other credits resulting from benefit payments that include, but are not limited to—

(a) Uncashed and returned checks.

(b) Refunds attributable to litigation with regard to payments of FEGLI Program life insurance monies.

(c) Erroneous benefit payment, refunds, overpayment, and duplicate payment recoveries.

(d) Escheatments.

2131.203–70 FEGLI General and Administrative (G&A) expenses.

The provisions of FAR 31.203 apply to the allocation of indirect costs by means of a "dividend or retention formula."

2131.205 Selected costs.

2131.205–41 Taxes.

(a) Any tax incurred by the contractor in connection with the operation of this contract shall be deemed an after-imposed tax and not an excepted tax within the meaning of FAR 52.229–4. However, the contractor shall be liable for any income tax assessed on the contractor's profit derived from administering this contract.

(b) The provision at FAR 31.205–41 is modified to include as unallowable costs taxes on FEGLI premiums by any State, the District of Columbia, the Commonwealth of Puerto Rico, or any political subdivision or governmental authority of those entities (see 2129.370(a)).

(c) Federal tax paid on policy acquisition expenses (Deferred Acquisition Cost "DAC" tax) shall be an allowable cost. The DAC tax includes the tax on additional premium remitted to the contractor to meet its DAC tax obligations.

2131.205–70 FEGLI public relations and advertising costs.

The provisions of FAR 31.205–1 shall be modified to include the following:

(a) Costs of media messages are allowable if approved by the contracting officer and all of the following criteria are met:

(1) The primary objective of the message is to disseminate information on general health and fitness or encouraging healthful lifestyles;

(2) The costs of the contractor's messages are allocated to all underwritten and non-underwritten lines of business; and

(3) The contracting officer approves the total dollar amount of the contractor's messages to be charged to the FEGLI Program in advance of the policy year.

(b) Costs of media messages that inform enrollees about the FEGLI Program are allowable if approved by the contracting officer.

(c) In those instances where contracting officer approval of the total dollar amount is not solicited in advance, it is incumbent upon the contractor to show the contracting officer, for subsequent approval, that the costs are reasonable and do not unduly burden the administrative cost to the contract.

(d) Costs of messages that are intended to, or which have the primary effect of, calling favorable attention to the contractor or subcontractor for the purpose of enhancing its overall image or selling its product or services are not allowable.

2131.205–71 FEGLI bad debts.

Erroneous benefit payments. If the contractor or OPM determines that a FEGLI benefit has been paid in error for any reason, the contractor shall make a diligent effort to recover such erroneous payment from the recipient. If the contractor is unable to recover the erroneous payment from the recipient, the contracting officer shall allow the amount of the payment to be charged to the contract provided the contractor has demonstrated that payment was made in accordance with an approved debt collection system as referenced in 2146.271(b) and that either a diligent effort to recover, or a determination that it would not be cost effective to recover, the erroneous overpayment has been made. The contractor's compliance with a system maintained under 2146.271(b) will be deemed to be a diligent effort to recover an overpayment.

2131.205–72 FEGLI compensation for personal services.

FAR 31.205–6 is supplemented as follows:

Overtime on a FEGLI contract would normally meet the condition specified in FAR 22.103. Premiums for overtime, extra-pay shifts, and multi-shifts meeting the specified conditions shall be allowed without prior approval.

2131.205–73 Selling costs.

Selling costs are allowable costs to FEGLI contracts only to the extent that they are attributable to conducting contract negotiations with the Government and for liaison activities involving ongoing contract administration, including the conduct of informational and enrollment activities as directed by the contracting officer.

2131.205–74 Trade, business, technical and professional activity costs.

(a) FEGLI contractors shall seek the advance written approval of the contracting officer for allowability of all or part of the costs associated with trade, business, technical, and professional activities (FAR 31.205–43) when the allocable costs of such participation to the FEGLI Program will exceed $2,500 annually and the contractor allocates more than 50% of the membership cost of a trade, business, technical, or professional organization to the FEGLI Program.

(b) When approval of costs for membership in an organization is required, the contractor must demonstrate conclusively that membership in such an organization and participation in its activities extend beyond the contractual relationship with OPM, have a reasonable relationship to providing services to FEGLI Program insureds, and that the organization is not engaged in activities such as those cited in FAR 31.205–22 (lobbying costs) for which costs are not allowable.

2131.205–75 FEGLI nonrecurring costs.

Nonrecurring costs that exceed $25,000, such as forms printing costs and any open season costs that may arise shall be allowed only to the extent provided for by advance agreement in accordance with FAR 31.109.

2131.205–76 Major subcontractor service charge.

When costs are determined on the basis of actual costs incurred, any amount that exceeds the allowable cost of a major subcontract (whether entitled service charge, incentive fee, profit, fee, surplus, or any other title) is not allowable under the contract. Amounts which exceed allowable costs may be paid to a major subcontractor only from the risk charge or service charge negotiated between OPM and the contractor.

2131.205-77 Reinsurer administrative expense costs.

A charge of $500 per policy year per reinsurer of the FEGLI Program as set forth in the contract is an allowable cost when documented through an internal accounting entry of the contractor and actually paid. This amount is deemed to be sufficient to reimburse reinsurers for the minor administrative expenses incurred in reinsuring the FEGLI Program.

PART 2132—CONTRACT FINANCING

Subpart 2132.1—General

Sec.
2132.170 Recurring premium payments to contractors.
2132.171 Contract clause.

Subpart 2132.6—Contract Debts

2132.607 Tax credit.

2132.617 Contract clause.

Subpart 2132.7—Contract Funding

2132.770 Insurance premium payments and special Contingency Reserve.

2132.771 Non-commingling of FEGLI Program funds.

2132.772 Contract clause.

Subpart 2132.8—Assignment of Claims.

2132.870 Contract clause.

Authority: 5 U.S.C. 8709; 40 U.S.C. 486(c); 40 CFR 1.301.

Subpart 2132.1—General

2132.170 Recurring premium payments to contractors.

OPM and the contractor will concur on an estimate of benefits and administrative costs plus the fixed service or risk charge for the forthcoming contract year, as specified in the contract. The annual premium to the contractor will be determined based on this estimate. The premium will be redetermined annually and will be provided to the contractor in 12 equal monthly installments due on the first day of each month. Following the close of the contract year, a reconciliation of premiums, benefits, and other costs will be performed and additional payment by OPM or reimbursement by the contractor will be made as necessary.

2132.171 Contract clause.

The clause at 2152.232-70 shall be inserted in all FEGLI Program contracts.

Subpart 2132.6—Contract Debts

2132.607 Tax credit.

FAR 32.607 has no practical application to FEGLI contracts. The statutory provisions at 5 U.S.C. 8707 and 8708 authorize joint enrollee and Government contributions to the Employees' Life Insurance Fund. Because the Fund is comprised of contributions by enrollees as well as the Government, contractors may not offset debts to the Fund by a tax credit that is solely a Government obligation.

2132.617 Contract clause.

The clause at FAR 52.232-17 will be modified in FEGLI Program contracts to exclude the words "net of any applicable tax credit under the Internal Revenue Code (26 U.S.C. 1481)."

Subpart 2132.7—Contract Funding

2132.770 Insurance premium payments and special Contingency Reserve.

Insurance premium payments and a special Contingency Reserve are made available to FEGLI Program contractors in accordance with 5 U.S.C. 8712 and 8714.

2132.771 Non-commingling of FEGLI Program funds.

(a) FEGLI Program funds shall be maintained in such a manner as to be separately identifiable from other assets of the contractor. Cash and investment balances reported on the FEGLI Program Annual Accounting Statement must be supported by the contractor's books and records.

(b) This requirement may be modified by the contracting officer in accordance with the clause at 2152.232-71 when adequate accounting and other controls are in effect. If the requirement is modified, such modification will remain in effect until rescinded by OPM.

2132.772 Contract clause.

The clause at 2152.232-71 shall be inserted in all FEGLI Program contracts.

Subpart 2132.8—Assignment of Claims

2132.870 Contract clause.

The clause set forth in 2152.232-72 shall be inserted in all FEGLI Program contracts.

PART 2133—PROTESTS, DISPUTES, AND APPEALS

Authority: 5 U.S.C. 8709; 40 U.S.C. 486(c); 48 CFR 1.301.

Subpart 2133.70—Contract Appeals Board

2133.7001 Designation of the Board of Contract Appeals.

The Armed Services Board of Contract Appeals [ASBCA] serves as the Board of Contract Appeals for the FEGLI Program. The rules of procedure followed in a dispute shall be those prescribed by the ASBCA.

PART 2137—SERVICE CONTRACTING

Subpart 2137.1—Service Contracts—General

Sec.
2137.102-70 Policy.
2137.110-70 Contract clause.

Authority: 5 U.S.C. 8709; 40 U.S.C. 486(c); 48 CFR 1.301.

Subpart 2137.1—Service Contracts—General

2137.102-70 Policy.

(a) The services under this contract are of vital interest to the Government and must be continued without interruption in the event the contract is terminated.

(b) To assure an orderly and efficient transition to a successor insurance company upon termination of the contract, the clause at FAR 52.237-3, Continuity of Services, will be modified in FEGLI contracts to extend the time period for contractor phase-in, phase-out services up to 10 months after termination of the contract.

(c) The contractor shall be reimbursed for all reasonable phase-in, phase-out costs (i.e., costs incurred within the agreed upon period after contract termination that result from phase-in, phase-out operations). The contractor also shall receive a fee (profit) for the full period after contract termination during which services are continued, not to exceed a pro rata portion of the fee (profit) for the final contract year. The amount of profit shall be based upon the accurate and timely processing of benefit claims, the volume and validity of complaints received by OPM, the timeliness and adequacy of reports on operations, and responsiveness to OPM offices, enrollees, beneficiaries, and Congress.

(d) Paragraph (d) of FAR clause 52.237-3 shall be modified to read as follows: "(d) The Contractor shall be reimbursed for all reasonable phase-in, phase-out costs (i.e., costs incurred within the agreed period after contract termination that result from phase-in, phase-out operations) and a fee (profit) not to exceed a pro rata portion of the fee (profit) under this contract. The amount of profit shall be based upon the accurate and timely processing of benefit claims, the volume and validity of complaints received by OPM, the timeliness and adequacy of reports on operations, and responsiveness to OPM offices, enrollees, beneficiaries, and Congress. In setting the final profit figure, obstacles overcome by the

contractor during the phase-in, phase-out period will be taken into consideration."

2137.110–70 Contract clause.

The clause at FAR 52.237–3, as modified in 2137.102–70(d), shall be inserted in all FEGLI contracts.

PART 2143—CONTRACT MODIFICATIONS

Subpart 2143.1—General

Sec.
2143.170 FEGLI Program contract modifications.
2143.171 Contract clause.
Authority: 5 U.S.C. 8709; 40 U.S.C. 486(c); 48 CFR 1.301.

Subpart 2143.1.—General

2143.170 FEGLI Program contract modifications.

Except as necessary to implement new or existing legislation, if the regulatory requirements published in accordance with 2301.301 are amended in a manner which would increase the contractor's liability under the contract, the amendment will be made effective for the contract period subsequent to the period in which the amendment is promulgated. However, if the amendment is promulgated after July 31, it will not be effective until the second contract year following the year in which it is promulgated, unless the contractor agrees to an earlier date.

2143.171 Contract clause.

The clause at FAR 52.243–3, Alternate I, shall be modified in FEGLI contracts by inserting the following at the beginning of paragraph (a) : "Except as provided in paragraph (f)," and by adding a new paragraph (f) to read as follows: "(f) Except as necessary to implement new or existing legislation, if the regulatory requirements published in accordance with 2101.301 are amended in a manner which would increase the contractor's liability under the contract, the amendment will be made effective for the contract period subsequent to the period in which the amendment is promulgated. However, if the amendment is promulgated in August or September, it will not be effective until the second contract year following the year in which it is promulgated, unless the contractor agrees to an earlier date."

PART 2144—SUBCONTRACTING POLICIES AND PROCEDURES

Subpart 2144.1—General

Sec.
2144.170 Policy for FEGLI Program subcontracting consent.

Subpart 2144.2—Consent to Subcontracts

2144.270 Contract clause.
Authority: 5 U.S.C. 8709; 40 U.S.C. 486(c); 48 CFR 1.301.

Subpart 2144.1—General

2144.170 Policy for FEGLI Program subcontracting consent.

For all FEGLI contracts, advance approval shall be required on subcontracts or modifications to subcontracts when the amount charged the FEGLI contract exceeds $200,000 and over 25% of the subcontract cost is charged to the FEGLI contract.

Subpart 2144.2—Consent to Subcontracts

2144.270 Contract clause.

The clause set forth at 2152.244–70 shall be inserted in all FEGLI Program contracts.

PART 2146—QUALITY ASSURANCE

Subpart 2146.2—Contract Quality Requirements

Sec.
2146.270 General.
2146.271 FEGLI Program quality assurance requirements.
Authority: 5 U.S.C. 8709; 40 U.S.C. 486(c); 48 CFR 1.301.

Subpart 2146.2—Contract Quality Requirements

2146.270 General.

(a) This part prescribes policies and procedures to ensure that services acquired under the FEGLI contract conform to the contract's quality requirements.

(b) OPM shall evaluate the contractor's system of internal controls under the quality assurance program required by 2146.271 prior to each contract year and will acknowledge in writing whether or not the system is consistent with the requirements set forth in this subpart. After the initial review, each annual review may be limited to changes in the contractor's internal control guidelines. However, a limited review does not diminish the contractor's obligation to apply the full internal control system.

2146.271 FEGLI Program quality assurance requirements.

(a) The contractor shall develop and apply a quality assurance program specifying procedures for assuring contract quality. At a minimum, the program should include procedures to address:

(1) Accuracy of payments and recovery of overpayments;

(2) Timeliness of payments to beneficiaries;

(3) Quality of services and responsiveness to beneficiaries;

(4) Quality of service and responsiveness to OPM; and

(5) Detection and recovery of fraudulent claims.

(b) The contractor shall prepare overpayment recovery guidelines to include a system of internal control for approval annually by the contracting officer. The contracting officer may withdraw such approval with 90 days' notice of prospective withdrawal.

(c) The contractor shall keep complete records of its quality assurance procedures and the results of their implementation and make them available to the Government during contract performance and for as long afterwards as the contract requires.

(d) The contracting officer or his or her representative has the right to inspect and test all services called for by the contract, to the extent practicable, at all times and places during the term of the contract and for as long afterwards as the contract requires. The contracting officer or his or her representative shall perform any inspections and tests in a manner that will not unduly delay the work.

(e) The contracting officer may order the correction of a deficiency or a modification in the contractor's services and/or quality assurance program. The contractor shall take the necessary action promptly to implement the contracting officer's order. If the contracting officer orders the correction of a deficiency or a modification of the contractor's services and/or quality assurance program pursuant to this paragraph after the contract year has begun, the costs incurred in correcting the deficiency or making the modification will not be considered to the contractor's detriment in the cost control factor of the service charge [if applicable]. However, if there is a deficiency, the deficiency itself may be taken into consideration.

PART 2149—TERMINATION OF CONTRACTS

Sec.
2149.002–70 Applicability of the FAR to FEGLI Program acquisitions.

Subpart 2149.1—General Principles

2149.170 FEGLI Program contract termination clause.
Authority: 5 U.S.C. 8709; 40 U.S.C. 486(c); 48 CFR 1.301.

2149.002–70 Applicability of the FAR to FEGLI Program acquisitions.

(a) *Termination.* (1) Termination of FEGLI Program contracts is controlled by 5 U.S.C. 8709(c) and this regulation. The procedures for termination of FEGLI contracts shall be those contained in FAR part 49. For the purpose of this Part, "discontinue" in 5 U.S.C. 8709(c) means "terminate."

(2) A life insurance contract entered into by OPM may be terminated by OPM at any time for default by the Contractor. A life insurance contract entered into by OPM may terminate at the end of the 31st day after default by OPM (see 2152.232–70, Payments).

(3) A life insurance contract entered into by OPM may be terminated for convenience of the Government 60 days after the Contractor's receipt of OPM's notice to terminate.

(4) The contractor may terminate its contract with OPM at the end of any policy year when notice of intent to terminate is given to OPM in writing at least sixty days prior to the end of the policy year.

(b) *Continuation of services.* The services under this contract are of vital interest to the Government and must be continued without interruption in the event the contract is terminated. Consequently, the contract termination procedures contained in this paragraph must be used in conjunction with the provisions of the "Continuity of Services" clause at FAR 52.237–3, as modified at 2137.102–70.

(c) *Settlement.* The procedures for settlement of contracts after they are terminated shall be those contained in FAR part 49.

Subpart 2149.1—General Principles

2149.170 FEGLI Program contract termination clause.

The clause in 2152.249–70 shall be inserted in all FEGLI Program contracts.

SUBCHAPTER H—CLAUSES AND FORMS

PART 2152—CONTRACT CLAUSES

Sec.

Authority: 5 U.S.C. 8709; 40 U.S.C. 486(c), 48 CFR 1.301.

2152.000 Applicable clauses.

The clauses of FAR subpart 52.2 specified below shall be applicable to FEGLI Program contracts. The most recent edition of the clause in the FAR shall be applied unless otherwise provided in the contract.

Section and Clause Title

52.202–1 Definitions
52.203–1 Officials not to Benefit
52.203–3 Gratuities
52.203–5 Covenant Against Contingent Fees
52.203–6 Restrictions on Subcontractor Sales to the Government
52.203–7 Anti-Kickback Procedures
52.203–9 Requirement for Certificate of Procurement Integrity— Modification
52.203–10 Price or Fee Adjustment for Illegal or Improper Activity
52.203–12 Limitation on Payments to Influence Certain Federal Transactions
52.209–6 Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment
52.215–1 Examination of Records by Comptroller General
52.215–2 Audit—Negotiation
52.215–22 Price Reduction for Defective Cost or Pricing Data
52.215–24 Subcontractor Cost or Pricing Data
52.215–27 Termination of Defined Benefit Pension Plans
52.215–30 Facilities Capital Cost of Money
52.215–31 Waiver of Facilities Capital Cost of Money
52.215–39 Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions
52.219–8 Utilization of Small Business Concerns and Small Disadvantaged Business Concerns
52.219–13 Utilization of Women-Owned Small Businesses
52.220–3 Utilization of Labor Surplus Area Concerns
52.222–1 Notice to the Government of Labor Disputes
52.222–3 Convict Labor
52.222–4 Contract Work Hours and Safety Standards Act—Overtime Compensation—General
52.222–21 Certification of NonSegregated Facilities
52.222–22 Previous Contracts and Compliance Reports
52.222–25 Affirmative Action Compliance
52.222–26 Equal Opportunity
52.222–28 Equal Opportunity Preaward Clearance of Subcontracts
52.222–29 Notification of Visa Denial
52.222–35 Affirmative Action for Special Disabled and Vietnam Era Veterans
52.222–36 Affirmative Action for Handicapped Workers
52.222–37 Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era
52.222–41 Service Contract Act of 1965, as Amended
52.223–2 Clean Air and Water
52.223–6 Drug-Free Workplace
52.227–1 Authorization and Consent
52.227–2 Notice and Assistance
52.228–7 Insurance—Liability to Third Persons
52.229–4 Federal, State, and Local Taxes (Noncompetitive Contract)
52.229–6 Taxes—Foreign Fixed-Price Contracts
52.232–9 Limitation on Withholding of Payments
52.232–17; 2132.617 Interest
52.232–23 Assignment of Claims
52.232–28 Electronic Funds Transfer Payment Method
52.233–1 Disputes (Alternate I)
52.237–3 Continuity of Services
52.242–1 Notice of Intent to Disallow Costs
52.242–13 Bankruptcy
52.243–1 Changes—Fixed-Price—Alternate I
52.244–5 Competition in Subcontracting
52.245–2 Government Property (Fixed-Price Contracts)
52.246–4 Inspection of Services—Fixed Price
52.246–25 Limitation of Liability—Services
52.247–63 Preference for U.S.-Flag Air Carriers
52.249–2 Termination for Convenience of the Government (Fixed Price)
52.249–14 Excusable Delays
52.251–1 Government Supply Sources
52.252–4 Alterations in Contract
52.252–6 Authorized Deviations in Clauses

Subpart 2152.2—Texts of FEGLI Program Contract Clauses

2152.203–70 Misleading, deceptive, or unfair advertising

As prescribed in 2103.7002, the following clause shall be inserted in all FEGLI Program contracts:

Misleading, Deceptive, or Unfair Advertising

The Contractor agrees that any advertising material released by the contractor which mentions the FEGLI Program shall be truthful and not misleading, and shall present an accurate statement of FEGLI Program benefits. The Contractor agrees to use its best efforts to assure that its agents are aware of and abide by this provision.

The Contractor agrees to incorporate this clause in all subcontracts as defined at LIFAR 2102.371.

(End of Clause)

2152.204–70 Contractor records retention.

As prescribed in 2104.705, the following clause shall be inserted in all FEGLI Program contracts.

Contractor Records Retention

Notwithstanding the provisions of FAR 52.215–2(d), "Audit-Negotiation," the Contractor will retain and make available all records applicable to a contract term that support the annual statement of operations for a period of 5 years after the end of the contract term to which the records relate. Individual enrollee and/or beneficiary claim records shall be maintained for 10 years after the end of the policy year to which the claim records relate.
(End of Clause)

2152.215–70 Investment income.

As prescribed in 2115.802–71, the following clause shall be inserted in all FEGLI Program contracts.

Investment Income

(a) The Contractor shall invest and reinvest all FEGLI Program funds on hand until needed to discharge promptly the obligations incurred under the contract. Within the constraints of safety and liquidity of investments, the Contractor shall seek to maximize investment income.

(b) All investment income earned on FEGLI Program funds shall be credited to the FEGLI Program.

(c) When the Contracting Officer concludes that the Contractor failed to comply with paragraph (a) or (b) of this clause, the Contractor shall pay to the Office of Personnel Management (OPM) the investment income that would have been earned, at the rate(s) specified in paragraph (d) of this clause, had it not been for the Contractor's noncompliance. "Failed to comply with paragraph (a) or (b)" means: (1) Making any charges against the contract which are not allowable, allocable, or reasonable; or (2) failing to credit any income due the contract and/or failing to place funds on hand, including premium payments and payments from OPM not needed to discharge promptly the obligations incurred under the contract, tax refunds, credits, deposits, investment income earned, uncashed checks, or other amounts owed OPM in income-producing investments and accounts.

(d)(1) Investment income lost as a result of unallowable, unallocable, or unreasonable charges against the contract shall be paid from the 1st day of the contract term following the contract term in which the unallowable charge was made and shall end on the earlier of:

(i) The date the amounts are returned to OPM;

(ii) The date specified by the Contracting Officer; or (iii) The date of the Contracting Officer's Final Decision.

(2) Investment income lost as a result of failure to credit income due the contract or failure to place funds on hand in income-producing investments and accounts shall be paid from the date the funds should have been invested or appropriate income was not credited and shall end on the earlier of:

(i) The date the amounts are returned to OPM;

(ii) the date specified by the Contracting Officer; or,

(iii) the date of the Contracting Officer's Final Decision.

(3) The Contractor shall credit to the FEGLI Program income that is due in accordance with this clause. All amounts payable shall bear lost investment income compounded semiannually at the rate established by the Secretary of the Treasury as provided in section 12 of the Contract Disputes Act of 1978 (Pub. L. 95–563), during the periods specified in paragraphs (d)(l) and (d)(2).

(4) All amounts due and unpaid after the periods specified in paragraphs (d)(1) and (d)(2) shall bear simple interest at the rate applicable for each 6-month period as fixed by the Secretary until the amount is paid [see FAR 32.614–1].
(End of Clause)

2152.216–70 Accounting and allowable cost.

As prescribed in 2116.270–1, the following clause shall be inserted in all FEGLI Program contracts:

Accounting and Allowable Cost

(a) *Annual Accounting Statement.* (1) The contractor shall prepare annually an accounting statement summarizing the financial results of the FEGLI Program for the previous contract year. This statement shall be prepared in accordance with the requirements issued annually by OPM and shall be due to OPM in accordance with a date established by those requirements.

(2) The Contractor shall have the most recent financial statement for the FEGLI Program audited by an accounting firm that ascribes to the standards of the American Institute of Certified Public Accountants. The report shall be submitted to OPM along with the annual accounting statement.

(3) Based on the results of either the independent audit or a Government audit, the annual accounting statements for the FEGLI Program may be (i) adjusted by amounts found not to constitute properly allocable or allowable costs; or (ii) adjusted for prior overpayments or underpayments.

(b) *Definition of costs.* (1) The allowable costs chargeable to the contract for a policy year shall be the actual, necessary, reasonable, and allocable amounts incurred with proper justification and accounting support, determined in accordance with subpart 31.2 of the Federal Acquisition Regulation (FAR) and subpart 2131.2 of the Federal Employees Group Life Insurance Program Acquisition Regulation (LIFAR) applicable on October 1 of each year, and the terms of this contract.

(2) In the absence of specific contract terms to the contrary, contract costs shall be classified in accordance with the following criteria:

(i) *Benefits.* Claims costs consist of payments made and costs incurred for life insurance and accidental death and dismemberment insurance on behalf of FEGLI subscribers, including interest paid on delayed claims, less any overpayments, refunds, or other credits received.

(ii) *Administrative expenses.* Administrative expenses consist of all allocable, allowable, and reasonable expenses incurred in the adjudication of beneficiary claims or incurred in the Contractor's overall operation of the business. Unless otherwise provided in the contract, FAR, or LIFAR, administrative expenses include, but are not limited to, taxes, insurance and reinsurance premiums, the cost of investigation and settlement of policy claims, the cost of maintaining files regarding payment of claims, and legal expenses incurred in the litigation of benefit payments. Administrative expenses exclude the expenses related to investment income in paragraph (iii) below.

(iii) *Investment income.* Within the constraints of liquidity and safety, the Contractor is required to invest and reinvest all FEGLI funds on hand until needed to discharge promptly the obligations incurred under the contract. Investment income represents the amount earned by the Contractor after deducting reasonable, necessary, and properly allocable investment expenses as a result of investing the FEGLI Program funds. The direct or allocable indirect expenses incurred with respect to the investment of Program funds, such as brokerage fees, are netted against investment income earned rather than as part of administrative expenses.

(c) *Certification of Annual Accounting Statement.* (1) The Contractor shall certify the annual accounting statement in the form set forth in paragraph (c)(3) of this clause. The certificate shall be signed by the chief executive officer for the Contractor's FEGLI operations and the chief financial officer for the Contractor's FEGLI operations and shall be returned with the annual accounting statement.

(2) The certification required shall be in the following form:

Certification of Annual Accounting Statement

This is to certify that I have reviewed this accounting statement and, to the best of my knowledge and belief, attest that:

1. The statement was prepared in conformity with the guidelines issued by the Office of Personnel Management and fairly presents the financial results of this policy year in conformity with those guidelines;

2. The costs included in the statement are allowable and allocable in accordance with the terms of the contract and with the cost principles of the Federal Employees' Group Life Insurance Program Acquisition Regulation (LIFAR) and the Federal Acquisition Regulation (FAR);

3. Income, overpayments, refunds, and other credits made or owed in accordance with the terms of the contract and applicable cost principles have been included in the statement.

Contractor Name: _____

_____

Name of Chief Executive Officer for FEGLI Operations

Date signed: _____

_____

Name of Chief Financial Officer for FEGLI Operations

(Type or print and sign)

Date signed: _____

(End of Certificate)
(End of Clause)

2152.216–71 Fixed price with limited cost redetermination—risk charge.

As prescribed in 2116.271–1(a), the following clause shall be inserted in FEGLI Program contracts when a risk charge is negotiated.

Risk Charge

OPM shall pay the Contractor the risk charge specified in appendix ____ for the risk assumed in performing this contract.
(End of clause)

2152.216–72 Fixed price with limited cost redetermination—service charge.

As prescribed in 2116.271–1(b), the following clause shall be inserted in FEGLI Program contracts when a service charge is negotiated.

Service Charge

OPM shall pay the Contractor the service charge specified in appendix ____.
(End of clause)

2152.222–70 Notice of Significant Events.

As prescribed in 2122.170, the following clause shall be inserted in all FEGLI Program contracts:

Notice of Significant Events

(a) The Contractor agrees to notify OPM of any Significant Event within 10 working days after the Contractor becomes aware of it. As used in this section, a Significant Event is any occurrence or anticipated occurrence that might reasonably be expected to have a material effect upon the Contractor's ability to meet its obligations under this contract, including, but not limited to, any of the following:

(1) Disposal of 25 percent or more of the Contractor's assets within a six-month period;

(2) Termination or modification of any contract or subcontract if such termination or modification might have a material effect on the Contractor's obligations under this contract;

(3) Loss of 20 percent or more of FEGLI Program reinsurers in a policy year.

(4) The imposition of, or notice of the intent to impose, a receivership, conservatorship, or special regulatory monitoring;

(5) The withdrawal of, or notice of intent to withdraw, by any State of its license to do business or any other change of status under Federal or State law;

(6) The Contractor's default on a loan or other financial obligation;

(7) Any actual or potential labor dispute that delays or threatens to delay timely performance or substantially impairs the functioning of the Contractor's facilities or facilities used by the Contractor in the performance of the contract;

(8) Any change in its charter, constitution, or by-laws which affects any provision of this contract or the Contractor's participation in the Federal Employees' Group Life Insurance Program;

(9) Any significant changes in policies and procedures or interpretations of the contract which would affect the benefits payable under the contract or the costs charged to the contract;

(10) Any fraud, embezzlement or misappropriation of FEGLI Program funds; or

(11) Any written exceptions, reservations or qualifications expressed by the independent accounting firm (which ascribes to the standards of the American Institute of Certified Public Accountants) contracted with by the Contractor to provide an opinion on the annual accounting statements required by OPM for the FEGLI Program.

(b) Upon learning of a Significant Event, OPM may institute action, in proportion to the seriousness of the event, to protect the interest of insureds, including, but not limited to—

(1) Directing the Contractor to take corrective action;

(2) Making a downward adjustment to the weight in the "Contractor Performance" factor of the service charge; or,

(3) Withholding payment of the service charge.

(c) Prior to taking action as described in paragraph (b) of this clause, OPM will notify the Contractor and offer an opportunity to respond.

(d) The Contractor agrees to insert this clause in any subcontract or subcontract modification if both the amount of the subcontract or modification charged to the FEGLI Program exceeds $200,000, and the amount of the subcontract or modification to be charged to the FEGLI Program exceeds 25 percent of the total cost of the subcontract or modification.
(End of Clause)

2152.224–70 Confidentiality of records.

As prescribed in 2124.7002, the following clause shall be inserted in all FEGLI Program contracts:

Confidentiality of Records

(a) The Contractor shall use the personal data on employees and annuitants that is provided by agencies and OPM, including for the data and published annually in the Federal Register as a part of OPM's notice of systems of records.

(b) The Contractor shall also hold all medical records, evidence of insurability for insurance coverage, designations of beneficiaries, amounts of insurance, and information relating thereto, of the insured and family members confidential except for disclosure as follows:

(1) As may be reasonably necessary for the administration of this contract;

(2) As authorized by the insured or his or her estate;

(3) As necessary to permit Government officials having authority to investigate and prosecute alleged civil or criminal actions; and

(4) As necessary to audit the contract.
(End of Clause)

2152.232–70 Payments.

As prescribed in 2132.171, the following clause shall be inserted in all FEGLI Program contracts:

Payments

(a) OPM will provide to the Contractor, in full settlement of its obligations under this contract, subject to adjustment based on actual claims and administrative cost or for Contractor fraud, a fixed premium once per month on the first business day of the month. The premium will be determined by an estimate of costs for the contract year as provided in section ____, and will be redetermined annually. In addition, an annual reconciliation of premiums and actual costs will be performed, and additional payment by OPM or reimbursement by the contractor will be paid as necessary.

(b) If OPM fails to provide the premium in full by the due date, a grace period of 31 days shall be granted to OPM for providing any premium due, unless OPM has previously given written notice to the Contractor that the contract is to be discontinued on the premium due date. The contract shall continue in force during the grace period.

(c) If OPM fails to provide any premiums within the grace period, the contract shall be discontinued at the end of the 31st day of the grace period, unless the Contractor and OPM agree to continue the contract. OPM shall be liable to the Contractor for all premiums then due and unpaid. If during the grace period OPM presents written notice to the Contractor that the contract is to be discontinued before the expiration of the grace period, the contract shall be discontinued the later of the date of receipt of such written notice by the Contractor or the date specified by OPM for discontinuance. OPM shall be liable to the Contractor for all premiums then due and unpaid.

(d) The specific premium rates, charges, allowances and limitations applicable to the contract are set forth in 5 CFR part 870, et. seq., 48 CFR chapter 1, LIFAR, and this contract.

(e) In accordance with FAR 52.243–2, if a change is made to the contract that increases or decreases the cost of performance of the work under this contract, the Contracting Officer shall make an equitable adjustment to the estimate on which the monthly premiums are based.

(f) In the event this contract is terminated in accordance with LIFAR Part 2149, the special Contingency Reserve held by the Contractor shall be available to pay the necessary and proper charges against this contract after other Program assets held by the Contractor are exhausted.
(End of Clause)

2152.232–71 Non-commingling of FEGLI Program funds.

As prescribed in 2132.772, the following clause shall be inserted in all FEGLI Program contracts.

Non-Commingling of Funds

(a) FEGLI Program funds shall be maintained in such a manner as to be separately identifiable from other assets of the contractor. Cash and investment balances reported on the FEGLI Program Annual Accounting Statement must be supported by the contractor's books and records.

(b) The Contractor may request a modification of this requirement from the Contracting Officer. The modification shall be requested in advance and the Contractor shall demonstrate that accounting techniques

have been established that will clearly measure FEGLI Program cash and investment income (i.e., subsidiary ledgers). Reconciliations between amounts reported and actual amounts shown in accounting records shall be provided as supporting schedules to the Annual Accounting Statements.
(End of Clause)

2152.232-72 Approval for the Assignment of Claims.

As prescribed in 2132.870, the following clause shall be inserted in all FEGLI Program contracts:

Approval for Assignment of Claims

(a) The Contractor shall not make any assignment of FEGLI funds under the Assignment of Claims Act without the prior written approval of the Contracting Officer.

(b) Unless a different period is specified in the Contracting Officer's written approval, an assignment of FEGLI funds shall be in force only for a period of 1 year from the date of the Contracting Officer's approval. However, assignments may be renewed upon their expiration.
(End of Clause)

2152.244-70 Subcontracts.

As prescribed by 2144.270, the following clause shall be inserted in all FEGLI Program contracts:

Subcontracts

(a) The Contractor shall notify the Contracting Officer reasonably in advance of entering into any subcontract or subcontract modification, or as otherwise specified by this contract, if both the amount of the subcontract or modification charged to the FEGLI Program exceeds $200,000 and is 25 percent of the total cost of the subcontract.

(b) The advance notification required by paragraph (a) of this clause shall include the information specified below:

(1) A description of the supplies or services to be subcontracted;

(2) Identification of the type of subcontract to be used;

(3) Identification of the proposed subcontract and an explanation of why and how the proposed subcontractor was selected, including the competition obtained;

(4) The proposed subcontract price and the Contractor's cost or price analysis;

(5) The subcontractor's current, complete, and accurate cost or pricing data and Certificate of Current Cost or Pricing Data, if required by other contract provisions.

(6) The subcontractor's Disclosure Statement or Certificate relating to Cost Accounting Standards when such data are required by other provisions of this contract; and

(7) A negotiation memorandum reflecting—

(i) The principal elements of the subcontract price negotiations;

(ii) The most significant consideration controlling establishment of initial or revised prices;

(iii) The reason cost or pricing data were or were not required;

(iv) The extent, if any, to which the Contractor did not rely on the subcontractor's cost or pricing data in determining the price objective and in negotiating the final price;

(v) The extent to which it was recognized in the negotiation that the subcontractor's cost or pricing data were not accurate, complete, or current; the action taken by the Contractor and the subcontractor; and the effect of any such defective data on the total price negotiated;

(vi) The reasons for any significant difference between the Contractor's price objective and the price negotiated; and

(vii) A complete explanation of the incentive fee or profit plan when incentives are used. The explanation shall identify each critical performance element, management decisions used to quantify each incentive element, reasons for the incentives, and a summary of all trade-off possibilities considered.

(c) The Contractor shall obtain the Contracting Officer's written consent before placing any subcontract for which advance notification is required under paragraph (a) of this clause. However, the Contracting Officer may ratify in writing any such subcontract. Ratification shall constitute the consent of the Contracting Officer.

(d) The Contracting Officer may waive the requirement for advance notification and consent required by paragraphs (a), (b), and (c) of this clause where the Contractor and subcontractor submit an application or renewal as a contractor team arrangement as defined in FAR Subpart 9.6 and—

(1) The Contracting Officer evaluated the arrangement during negotiation of the contract or contract renewal; and

(2) The subcontractor's price and/or costs were included in the plan's rates that were reviewed and approved by the Contracting Officer during negotiations of the contract or contract renewal.

(e) Unless the consent or approval specifically provides otherwise, consent by the Contracting Officer to any subcontract shall not constitute a determination (1) of the acceptability of any subcontract terms or conditions; (2) of the allowability of any cost under this contract; or (3) to relieve the Contractor of any responsibility for performing this contract.

(f) No subcontract placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis. Any fee payable under cost reimbursement type subcontracts shall not exceed the fee limitations in FAR 15.903(d). Any profit or fee payable under a subcontract shall be in accordance with the provisions of Section ____, Service Charge.

(g) The Contractor shall give the Contracting Officer immediate written notice of any action or suit filed and prompt notice of any claim made against the Contractor by any subcontractor or vendor that, in the opinion of the Contractor, may result in litigation related in any way to this contract with respect to which the Contractor may be entitled to reimbursement from the Government.
(End of Clause)

2152.249-70 Renewal and termination.

As prescribed in 2149.170, the following clause shall be inserted in all FEGLI Program contracts:

Renewal and Termination

(a) This contract renews automatically each October 1st, unless written notice of termination is given by the Contractor not less than 60 calendar days before the renewal date.

(b) This contract may be terminated by OPM at any time for default by the Contractor. This contract terminates at the end of the 31st day after default by the Government, unless the Contractor and OPM agree to continue the contract.

(c) This contract may be terminated for convenience of the Government 60 days after the Contractor's receipt of OPM's written notice of termination.

(d) Upon termination of the contract, the Contractor agrees to assist OPM with an orderly and efficient transition to a successor in accordance with FAR 52.237-3, Continuity of Services, as modified at 2137.102-70(b).

(e) After receipt of a termination notice, the prime contractor shall, unless directed otherwise by the Contracting Officer, terminate all subcontracts to the extent that they relate to the performance of the FEGLI contract. The failure of the prime contractor to include an appropriate termination clause in any subcontract, or to exercise the clause rights, shall not affect the Contracting Officer's right to require the termination of the subcontract; or increase the obligation of the Government beyond what it would have been if the subcontract had contained an appropriate clause.
(End of Clause)

Subpart 2152.3—FEGLI Program Clause Matrix

2152.370 Use of the matrix.

(a) The matrix in this section lists the FAR and LIFAR clauses to be used with the FEGLI Program contract. The clauses are to be incorporated in the contract in full text.

(b) Certain contract clauses are mandatory for FEGLI Program contracts. Other clauses are to be used only when made applicable by pertinent sections of the FAR or LIFAR. An "M" in the "use Status" column indicates that the clause is mandatory. An "A" indicates that the clause is to be used only when the applicable conditions are met.

FEGLI Program Clause Matrix

Clause No.	Text reference	Title	Use status
FAR 52.202-1	FAR 2.2	Definitions	M
FAR 52.203-1	FAR 3.102-2	Officials Not to Benefit	M
FAR 52.203-3	FAR 3.202	Gratuities	M
FAR 52.203-5	FAR 3.404(c)	Covenant Against Contingent Fees	M
FAR 52.203-6		Restrictions of Subcontractor Sales to the Government	M
FAR 52.203-7	FAR 3.502-3	Anti-Kickback Procedures	M
FAR 52.203-9	FAR 3.104-10(b)	Requirement for Certificate of Procurement Integrity—Modification	M
FAR 52.203-10	FAR 3.104-10(c)	Price or Fee Adjustment for Illegal or Improper Activity	M
FAR 52.203-12	FAR 3.808	Limitation on Payments to Influence Certain Federal Transactions	M
2152.203-70	2103.7002	Misleading, Deceptive, or Unfair Advertising	M
2152.204-70	2104.705	Contractor Records Retention	M
FAR 52.209-6	FAR 9.409(b)	Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment.	M
FAR 52.215-1	FAR 15.106-1(b)	Examination of Records by Comptroller General	M
FAR 52.215-2	FAR 15.106-2(b)	Audit—Negotiation	M
FAR 52.215-22	FAR 15.804-8(a)	Price Reduction for Defective Cost or Pricing Data	M
FAR 52.215-24	FAR 15.804-8(c)	Subcontractor Cost or Pricing Data	M
FAR 52.215-27	FAR 15.804-8(e)	Termination of Defined Benefit Pension Plans	M
FAR 52.215-30	FAR 15.904	Facilities Capital Cost of Money	M
FAR 52.215-31	FAR 15.904	Waiver of Facilities Capital Cost of Money	A
FAR 52.215-39	FAR 15.804-8(f)	Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions.	A
2152.215-70	2115.802-71	Investment Income	M
2152.216-70	2116.270-1	Accounting and Allowable Cost	M
2152.216-71	2116.271-1(a)	Fixed Fee—risk charge	A
2152.216-72	2116.271-1(b)	Fixed Fee—service charge	A
FAR 52.219-8	FAR 19.708(a)	Utilization of Small Business Concerns and Small Disadvantaged Business Concerns.	M
FAR 52.219-13	FAR 19.902	Utilization of Women-Owned Small Businesses	M
FAR 52.220-3	FAR 21.302(a)	Utilization of Labor Surplus Area Concerns	M
FAR 52.222-1	FAR 22.103-5(a)	Notice to the Government of Labor Disputes	M
FAR 52.222-3	FAR 22.202	Convict Labor	M
FAR 52.222-4	FAR 22.305(a)	Contract Work Hours and Safety Standards Act—Overtime Compensation—General.	M
FAR 52.222-21	FAR 22.810(a)(1)	Certification of Non-Segregated Facilities	M
FAR 52.222-22	FAR 22.810(a)(2)	Previous Contracts and Compliance Reports	M
FAR 52.222-25	FAR 22.810(d)	Affirmative Action Compliance	M
FAR 52.222-26	FAR 22.810(e)	Equal Opportunity	M
FAR 52.222-28	FAR 22.810(g)	Equal Opportunity Preaward Clearance of Subcontracts	M
FAR 52.222-29	FAR 22.810(h)	Notification of Visa Denial	A
FAR 52.222-35	FAR 22.1308(a)	Affirmative Action for Special Disabled and Vietnam Era Veterans	M
FAR 52.222-36	FAR 22.1408(a)	Affirmative Action for Handicapped Workers	M
FAR 52.222-37	FAR 22.1308(b)	Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era.	M
FAR 52.222-41	FAR 22.1006(a)	Service Contract Act of 1965, as Amended	M
2152.222-70	2122.170	Notice of Significant Events	M
FAR 52.223-2	FAR 23.105(b)	Clean Air and Water	A
FAR 52.223-6	FAR 23.505(c)	Drug-Free Workplace	M
2152.224-70	2124.7002	Confidentiality of Records	M
FAR 52.227-1	FAR 27.201-2(a)	Authorization and Consent	M
FAR 52.227-2	FAR 27.202-2	Notice and Assistance	A
FAR 52.228-7	FAR 28.311-2	Insurance—Liability to Third Persons	M
FAR 52.229-4	FAR 29.401-4	Federal, State, and Local Taxes (Noncompetitive Contract)	A
FAR 52.229-6	FAR 29.402-1(a)	Taxes—Foreign Fixed-Price Contracts	A
FAR 52.232-9	FAR 32.111(c)(2)	Limitation on Withholding of Payments (Modified)	M
FAR 52.232-17	FAR 32.617 Modification: 2132.617	Interest	M
FAR 52.232-23	FAR 32.806(a)(1)	Assignment of Claims	A
FAR 52.232-28	FAR 32.908(d)	Electronic Funds Transfer Payment Method	M
2152.232-70	2132.171	Payments	M
2152.232-71	2132.772	Non-Commingling of FEGLI Funds	M
2152.232-72	2132.870	Approval for Assignment of Claims	M
FAR 52.233-1	FAR 33.214	Disputes (Alternate I)	M
FAR 52.237-3	FAR 37.110-70 Modifications: 2137.102-70.	Continuity of Services	M
FAR 52.242-1	FAR 42.802	Notice of Intent to Disallow Costs	M
FAR 52.242-13	FAR 42.903	Bankruptcy	M
FAR 52.243-1	FAR 43.205(a)(2)	Changes—Fixed Price (Alternate I)	M
FAR 52.244-5	FAR 44.204(e)	Competition in Subcontracting	M
2152.244-70	2144.270	Subcontracts	M
FAR 52.245-2	FAR 45.106(b)(1)	Government Property (Fixed-Price Contracts)	M
FAR 52.246-4	FAR 46.304	Inspection of Services—Fixed-Price	M
FAR 52.246-25	FAR 46.805(a)(4)	Limitation of Liability—Services	M
FAR 52.247-63	FAR 47.405	Preference for U.S.-Flag Air Carriers	M
FAR 52.249-2	FAR 49.502(b)(1)	Termination for Convenience of the Government (Fixed Price)	M
FAR 52.249-8	FAR 49.504(a)(1)	Default (Fixed-Price Supply and Service)	M
2152.249-70	2149.170	Renewal and Termination	M
FAR 52.251-1	FAR 51.107	Government Supply Sources	A
FAR 52.252-4	FAR 52.107(d)	Alterations in Contract	M

FEGLI PROGRAM CLAUSE MATRIX—Continued

Clause No.	Text reference	Title	Use status
FAR 52.252-6	FAR 52.107(f)	Authorized Deviations in Clauses	M

[FR Doc. 92-13270 Filed 6-9-92; 8:45 am]
BILLING CODE 6325-01-M

federal register

Wednesday
June 10, 1992

Part III

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 1209

Mushroom Promotion, Research and Consumer Information Order; Proposed Rule and Referendum Order

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1209

[FV-91-276]

RIN: 0581-AA49

Mushroom Promotion, Research, and Consumer Information Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule and referendum order.

SUMMARY: The U.S. Department of Agriculture (Department) is proposing to issue a Mushroom Promotion, Research, and Consumer Information Order (order). The order is authorized by the Mushroom Promotion, Research, and Consumer Information Act of 1990. The program would be funded by assessments collected from producers and importers who produce or import, on average, over 500,000 pounds of mushrooms annually that are marketed or imported for fresh use. The program would be administered by a Mushroom Council consisting of at least four but no more than nine producer and importer members. The Department is also announcing that a referendum will be conducted among eligible producers and importers to ascertain whether the order will go into effect. The order as proposed herein will become effective if the Secretary of Agriculture determines that it has been approved by a majority of eligible producers and importers voting in the referendum, which majority, on average, annually produces and imports more than 50 percent of the mushrooms annually produced and imported by all those voting in the referendum.

DATES: The representative period for establishing voter eligibility shall be the period from July 1, 1990, through June 30, 1992. A referendum shall be conducted from July 22, 1992, through August 12, 1992.

ADDRESSES: Richard Schultz, Research and Promotion Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, room 2533–S, P.O. Box 96456, Washington, D.C. 20090–6456.

FOR FURTHER INFORMATION CONTACT: Richard Schultz at the above address or telephone (202) 720–5976.

SUPPLEMENTARY INFORMATION: This proposed order is being published pursuant to the Mushroom Promotion, Research, and Consumer Information Act of 1990 (Subtitle B of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101–624, November 28, 1990, 7 U.S.C. 6101–6112), as amended hereinafter referred to as the Act.

The proposal contained herein has been reviewed by the Department of Agriculture in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. Section 1930 of the Mushroom Promotion, Research, and Consumer Information Act of 1990 provides that nothing in the Act may be construed to preempt or supersede any other program relating to mushroom promotion, research, consumer information, or industry information organized or operated under the laws of the United States or any State.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under Section 1927 of the Act, a person subject to an order may file a petition with the Secretary stating that the order, a provision of the order, or an obligation imposed in connection with the order is not in accordance with law; and requesting a modification of the order or an exemption from the order. Such person is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in the district in which such person resides or does business has jurisdiction to review the Secretary's ruling on the petition, if a complaint if filed within 20 days after the date of the entry of a ruling by the Secretary.

Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed action on small entities.

The most recent Department census of mushroom growers in the United States indicates that there are 460 growers. For the purpose of this census, growers growing both Agaricus and specialty mushrooms were counted once. This census further indicates that there are 236 growers of Agaricus mushrooms and 238 growers of specialty mushrooms. There are between 100 and 150 growers who would fall under the definition of "producer" as defined in the Act and be subject to the provisions of the order. The vast majority of these producers are engaged in Agaricus mushroom production. Of these producers, a minority would be classified as small businesses. Small agricultural producers have been defined by the Small Business Administration (SBA) (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms, which include mushroom handlers and importers, have been defined as those having annual receipts of less than $3,500,000. There are approximately 100 handlers, including producers who are also handlers, and not more than 3 importers, out of approximately 30 importers, who would be subject to the provisions of the order, a majority of whom would be classified as small entities.

Department statistics indicate that during the period from July 1, 1990, through June 30, 1991, approximately 756 million pounds of mushrooms were produced in the United States. Of this total production, 518 million pounds or 69 percent was for the fresh market and 237 million pounds or 31 percent was for the processed market. During this period, the volume of sales for fresh market Agaricus mushrooms totaled 512 million pounds, while the volume of sales for commercially grown specialty mushrooms totaled 6 million pounds. Virtually all specialty mushrooms, which include Shiitake, Oyster, and others, were sold in the fresh market.

Department statistics indicate that during the period from July 1, 1990, through June 30, 1991, approximatey 3.5 million pounds of fresh mushrooms were imported into the United States. Major exporting countries, as a percentage of total fresh mushroom imports, were Canada (93.9%), Thailand (2.0%), Japan 1.9%), and Taiwan (1.0%). Department statistics for calendar year 1991 indicate that total imports of fresh mushrooms were approximately 4.6 million pounds. Major exporting countries, as a percentage of total fresh mushroom imports, were Canada (94.9%), Thailand (1.5%), Japan (1.2%), and Spain (0.9%).

The order provides for the payment of assessments by producers and importers who produce or import, on average, over 500,000 pounds of mushrooms annually that are marketed or imported for fresh use. For the first year the order is in effect such assessment cannot exceed one-quarter of one cent per pound of mushrooms. It could increase during the second and third year, and after the third year could be up to one cent per pound. The order would require an estimated 100 first handlers of fresh mushrooms, a majority of whom would be classified as small firms, to collect

and remit such assessments. During the first year of the order, should the order be approved in referendum, a maximum assessment rate of one-quarter of one cent per pound of fresh mushrooms marketed or imported could result in a total assessment collection of $1.1 million. Beginning in the fourth year of the order, a maximum assessment rate of one cent per pound of fresh mushrooms marketed or imported could result in a total assessment collection of $4.5 million. Although the maximum annual assessment collection could realize this sum annually, beginning in the fourth year of the order, the economic impact of a one cent or less assessment per pound on each producer or importer subject to the order would not be significant relative to the potential benefits to be gained from such a program. The order also imposes a reporting and recordkeeping burden on producers, first handlers, and importers. This burden should average approximately seven hours per year and its economic impact would not be significant relative to the potential benefits to be gained from such a program.

The promotion, research, consumer information, and industry information program funded by assessments is expected to benefit producers, handlers, and importers by strengthening the mushroom industry's position in the marketplace; maintaining and expanding existing markets and uses for mushrooms; and developing new markets and uses for mushrooms. Such benefits are expected to outweigh the costs of the program. Therefore, the Administrator of the Agricultural Marketing Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the information collection requirements contained in this action have been approved by the Office of Management and Budget (OMB) and assigned OMB number 0581–0093, except for the Mushroom Council nominee background statement form which is assigned OMB number 0505–0001. This action sets forth the provisions of a proposed nationwide program for mushroom promotion, research, consumer information, and industry information to be funded by mushroom producers and importers. Information collection requirements that are included in the proposed order include:

(1) A requirement that each first handler and importer of fresh mushrooms must file reports at specified intervals. The estimated number of first handlers and importers filing such reports is 103, each submitting a maximum of 12 reports per year, with an estimated average reporting burden of 30 minutes per report. However, these persons may alternatively prepay assessments annually, requiring only an initial report of anticipated assessments and a final annual report of actual handling;

(2) An exemption application for persons who produce or import, on average, 500,000 pounds or less of fresh mushrooms annually concerning exemptions from assessments and recordkeeping requirements. The estimated number of persons filing this application is 340, each submitting one application per year, with an estimated average reporting burden of 15 minutes per application;

(3) A referendum ballot to be submitted in a referendum prior to implementation of the program and periodically thereafter to indicate whether producers and importers favor continuance of the order. The estimated number of eligible voters completing this ballot is 153, each submitting one ballot approximately every five years, with an estimated average reporting burden of 6 minutes per ballot;

(4) A nominee background statement form for Mushroom Council membership. The estimated number of individuals completing this form is 18 during the first year of the order and approximately 6 per year thereafter. Two eligible individuals will be nominated for each open position on the Council, each of whom will have an estimated average reporting burden of 6 minutes per form; and

(5) A requirement to maintain records sufficient to verify reports submitted under the order. The estimated number of persons required to comply with this requirement is 203, each of whom will have an estimated average recordkeeping burden of 7 minutes per year.

Background

The Act authorizes the Secretary of Agriculture (Secretary) to establish a national mushroom promotion, research, consumer information, and industry information program. This program would be funded by an assessment on producers and importers who produce or import, on average, over 500,000 pounds of mushrooms annually that are marketed or imported for fresh use. The maximum assessment rate could not be realized until the fourth year of the order and could not exceed one cent per pound of mushrooms.

The Act provides for the establishment of such a national program through the issuance of an order by the Secretary. The Act further provides that an order contain certain specified terms and conditions. Such terms and conditions include provisions concerning the establishment of and composition of a Mushroom Council (Council), and the powers and duties of such a Council. Also included under terms and conditions are provisions concerning plans and budgets, contracts and agreements, books and records of the Council, assessments, prohibitions, books and records of first handlers and importers, and other terms and conditions.

The Act provides that the Council would be composed of at least four and not more than nine members. There would be four geographic regions established, which would represent the geographic distribution of mushroom production throughout the United States, with one member who is a producer nominated and appointed from each region that produces, on average, at least 35,000,000 pounds of mushrooms annually. There would be a fifth region established, which would represent importers throughout the United States, with one member who is an importer nominated and appointed from such region importing, on average, at least 35,000,000 pounds of mushrooms annually. Subject to the nine-member limit on the number of Council members, the Secretary would appoint an additional member to the Council from a region for each additional 50,000,000 pounds of production or imports per year, on average, within the region. Should, in the aggregate, regions be entitled to levels of representation that would exceed the nine-member limit on the Council, then those regions entitled to representation in excess of the basic quantity used in establishing representation on the Council would have representation allocated among them based on production or importation so that the Council does not exceed its nine-member limit.

In response to an invitation to submit proposals in the January 30, 1991, issue of the **Federal Register** (56 FR 3425), the Department received one proposal for a mushroom promotion, research, and consumer information order from the American Mushroom Institute, a national trade association, and several proposed order provisions from United Foods, Inc., a mushroom producer. The Department reviewed and considered the proposals, and then issued a

proposed rule which separately contained the provisions of both proposals, insofar as they were practicable and consistent with the Act, in the October 4, 1991, issue of the **Federal Register** (56 FR 50283). The Department reviewed and considered comments it had received on the proposed rule. The Department then issued another proposed rule which incorporated the proposed order provisions of both proposals into a single proposed order, and which addressed the comments received in the January 15, 1992, issue of the **Federal Register** (57 FR 1666).

The Department received 23 comments on the second proposed rule. Comments were received from the American Mushroom Institute and the Mushroom Council (AMI); United Foods, Inc. (United); the Office for Advocacy of the U.S. Small Business Administration (Office for Advocacy); the American Farm Bureau Federation; the Pennsylvania Farmers' Association; the National Customs Brokers & Forwarders Association of America, Inc.; the Geode Shiitake Producers Association; Kitchen Pride Mushroom Farms; Blue Mountain Mushroom Company, Inc.; Ostroms Farms; Mt. Baker Mushroom Farms; Homestead Mushrooms, Inc.; James H. Paxson & Sons, Inc.; Hastings Mushrooms; Mr. T.H. Bonifocino; Mr. Elmer Blosser; Forest Mushroom Farms; Pictsweet Mushroom Farms; Sun Rise Mushroom Company; B & C Fresh Sales; P. & V. D'Amico Mushrooms; John R. Stinson & Sons, Inc.; Sun Rise Mushroom Co.; and Kubla Khan Food Company.

Three commenters were in support of the order. Two of these commenters requested further clarification or modification of certain provisions of the order. Five commenters requested either clarification, modification, or deletion of certain provisions of the order. Several of these commenters also requested that the Department reconsider certain provisions that were denied in the previous proposed rule. Thirteen commenters were in opposition to the order. Eight of these commenters provided no information to support their points of view. One commenter was neutral to the order and provided no point of view. One commenter specified its organizational policy towards research and promotion programs. Comments were also received after the close of the comment period. These comments contained several issues which had already been addressed in other comments and which are discussed herein.

In addition to publishing the proposed order for public comment, a public meeting was held at the Department of Agriculture in Washington, DC on February 5, 1992. One purpose of this meeting was to provide an opportunity for a full discussion on the proposed rule to facilitate a better understanding of its intent and application. Prior to presenting their oral testimony, an agreement was reached, with the consent of the Department, between the AMI and United, the only persons presenting oral testimony. The agreement regarded the distribution of AMI's and United's written statements to persons attending the meeting in lieu of presenting oral testimony. The AMI and United assented to accept questions pertaining to their written statements by February 10, 1992, and to respond to such questions by February 13, 1992. The Department was the sole submitter of questions on the written statements. The Department's questions were submited to both the AMI and United.

The Department asked the AMI to clarify its statement regarding the term "first handler" in reference to §§ 1209.6 and 1209.51(a) of the order. The Department further asked for a clarification and AMI's intended usage of the term "on average" in reference to §§ 1209.8, 1209.14, 1209.30, 1209.31, and 1209.71 of the order. The Department also asked the AMI to explain the manner, as mentioned in § 1209.51(f) of the order, in which the Department could receive and hold assessments on behalf of the Council, prior to the formation of the Council. In response to United's concern regarding the absence of a definition for "fresh market", the Department asked United to propose such a definition for inclusion in the order. Also in response to United's concern regarding the fairness of the proposed nominations procedures for appointment on the Council, the Department asked United to propose alternative procedures.

In regard to several comments, there appears to be a need to clarify the distinction between marketing orders and research and promotion programs. The Fruit and Vegetable Division of the AMS oversees both programs. They consist of fruit, vegetable, and specialty crop marketing orders (marketing orders) and national research and promotion programs (R&P programs) for various commodities. All marketing orders are authorized by the same act, the Agricultural Marketing Agreement Act of 1937 (AMAA). On the other hand, each free standing R&P program is authorized by its own commodity specific legislation. The enabling acts for the R&P programs state, generally, as their policy objective: The development, financing, and carrying out of effective, continuous and coordinated national programs of research, development, consumer information, advertising and promotion to improve each commodity's competitive position in the marketplace. These programs do not directly regulate the handling or marketing of the affected commodities in terms of quality, quantity, or volume. The AMAA, however, generally authorizes only regional programs and its policy objectives are much broader. In brief, those objectives are to maintain orderly marketing conditions, avoid unreasonable fluctuations in supplies and prices, and establish parity prices to growers. Those objectives are met by direct regulation of the affected commodities through volume controls, minimum quality regulations, container and pack regulations, and inspection requirements. The AMAA also authorizes, under the marketing orders, production research, marketing research, and promotion and, for some commodities, paid advertising.

The AMI recommended that language be added to the order which would require an applicant seeking an exemption from assessments to ceritfy that such an applicant's previous year's production or imports did not exceed 500,000 pounds. The specifics involved in the exemption procedures are not intended to be part of the order and as such have not been incorporated into the order. At a later date, the Department intends to publish rules and regulations to implement the order, which will include a section on exemption procedures. Therefore, the recommended language will not be added to the order.

United and the Office for Advocacy expressed concern regarding increased cost and paperwork burden on persons seeking an exemption from the order. The Department does not anticipate a significant increase in cost or paperwork burden on persons seeking an exemption from the order. The Department views the use of an exemption application as a necessary safeguard. In the exemption process, the information collected would be held to a minimum, and affected persons should already possess most, if not all, of the information requested through the course of their normal business practices.

The AMI recommended that the language in paragraphs (f) (2) and (3) of § 1209.31 of the order regarding voting for nominees to the Council be modified. The commenter suggested that the

phrase "a majority of votes cast and a majority of the volume of production or imports voted" be replaced by "the highest number of votes cast and the highest volume of production or imports voted." Such a modification in language has merit. It could simplify and expedite voting for nominees to the Council. The Department has accepted this language and has incorporated it into paragraphs (f) (2) and (3) of § 1209.31.

United recommended several provisions to be added to § 1209.31 of the order regarding nomination procedures. The commenter questioned whether certain procedures outlining the nomination process were consistent with the Act. United was concerned that the nomination procedures in the order would, as a practical matter, guarantee certain large producers control over half of the nominations in their regions, presumably because volume is used as a measure of selecting nominees. The commenter further objected to the nomination procedures in § 1209.31 of the order in that instead of allowing each producer or importer to submit nominations directly to the Secretary, the order provides for selection of nominees through a regional caucus. The Department considers the procedures, as stated in the proposed rule, consistent with the Act. The Act as reflected in § 1925(b) allows the Secretary considerable discretion in the nomination process. The caucus system of selecting nominees as provided in the order is a practical and workable means of conducting the nomination process. Individual producers and importers would have the opportunity to submit candidates for consideration for selection through a caucus or a mail ballot as provided in § 1209.31(e) of the order. Also, basing the caucus or ballot vote equally on the highest number of votes cast and the highest volume of production or imports voted, as specified in the preceding paragraph, is deemed by the Department to be an equitable and fair way of establishing Council representation. At a later date, the Department intends to publish rules and regulations to implement the order, which will include any additional nomination procedures or safeguards deemed necessary. Therefore, the provisions will remain as proposed.

The same commenter questioned whether the language found in § 1209.33 of the order conformed with § 1925(b)(1)(B) of the Act. The commenter asked whether the phrase "* * * that no more than one member may be appointed to the Council from nominations submitted by any one producer or importer" would be applicable to Council appointments beyond the first year of the order. This prohibition would be applicable beyond the first year of the order. The Department determined that a clarification would be appropriate and has modified the language used in § 1209.33 of the order by removing the word "initial." Section 1209.33 of the order also contained a provision prohibiting producers or importers from having more than one employee appointed to the Council in any year after the initial Council is appointed. The proponent of this prohibition indicated that its purpose is to ensure that no one entity has a dominant position on the Council. After considering the comments regarding appointment of Council members, it is the Department's opinion that any prohibition such as the one regarding employees should more appropriately appear in the rules and regulations implementing the order and not in the order itself. Therefore, § 1209.33 of the order has been modified by removing the second sentence.

The National Customs Brokers & Forwarders Association of America, Inc. requested a clarification of § 1209.8 of the order regarding the term "importer." This commenter recommended that the assessment or, where applicable, the obligation to submit an exemption application should be imposed upon the actual owner or purchaser of the imported goods. This commenter further proposed that additional language, regarding the responsibilities of a Customs broker, be inserted into §§ 1209.8 and 1209.52(b) of the order. The Department disagrees with the commenter that the term "importer" needs further clarification in the order. The definition of "importer" in the Act and in the order is used in general terms to mean any person who imports. If any further clarification is needed it will be accomplished through implementing regulations. It is intended that the term "importer" should include any person who imports, as principal or as an agent, broker, or consignee, mushrooms from outside of the United States for marketing in the United States.

In response to questions arising from the public meeting concerning the order, AMI submitted comments regarding the meaning of the term "on average." The Department has added a definition of that term to the order. A calculation of average production or importation is necessary in determining a region's membership on the Council, in terms of volume of production or imports, and in determining whether a person, in terms of volume of production or imports, would be subject to the order. The Department agrees with the commenter's first recommendation that a two-year rolling average would be an appropriate measure of average annual production or importation. The Department disagrees with the commenter's second recommendation that a person's actual volume of production or imports during the most recent fiscal year should be used in determining whether a person would be subject to the order. This recommendation does not permit for averaging because it relies solely on one year. After having considered both recommendations, the Department has defined the term "on average" in § 1209.12 of the order to mean "a rolling average of production or imports during the last two fiscal years, or such other period as may be determined by the Secretary." Specific procedures of calculating average production or importation for purposes of administering various provisions of the order will be implemented by regulation.

United and the Office for Advocacy expressed concern that the order had not provided a definition for the term "fresh market." United further stated that the exclusion of this term raises constitutional concerns. The same commenter also argued that the absence of this term affects the identification of producers, the calculation of production within regions, the allocation of Council seats, the calculation of assessments, and the determination of eligible referendum voters. The Department disagrees with this argument because data is available regarding the number of growers, total production, volume of sales, price per pound, and value of sales for fresh market and processed market mushrooms. The term "fresh market" includes the marketing of all varieties of cultivated mushrooms grown in or imported into the United States, except such mushrooms which are commercially marinated, canned, frozen, cooked, blanched, dried, packed in brine, or otherwise processed in such manner as the Council, with the approval of the Secretary, may determine. This is consistent with the intent of the Act.

United and the Office for Advocacy inquired about the standard to be used in determining the marketing of mushrooms to the fresh market. Such a determination would be triggered by the initial marketing of mushrooms by either a producer-handler, handler, or importer. This is reasonable considering the modest size of the industry, the perishability of the commodity, and the difference in price paid for mushrooms

based on whether they go to the fresh market or to processing. It is not the intent of the Act and the order to impose stringent recordkeeping requirements in terms of tracking the sale of mushrooms throughout the channels of commerce to their final disposition.

United expressed concern that the order's definition of "mushroom" was contrary to the definition found in the Act. The Department has determined that the definition found in the order is consistent with the intent of the Act. The changes that were made to this definition were for the purpose of clarifying the fact that mushrooms which are marketed for the fresh market are subject to the order.

The Office for Advocacy remarked that the order's definition of "first handler"found in § 1209.6 was unclear. The commenter did not make any recommendations to clarify this term. The definition in the order is consistent with the definition found in the Act. If necessary, any further clarification would be accomplished through implementing regulations.

United, Pictsweet Mushroom Farms, B & C Fresh Sales, P. & V. D'Amico Mushrooms, Blue Mountain Mushroom Company, Inc. recommended the inclusion of processed mushrooms under the order. The term "mushroom" as defined in Section 1923(9) of the Act excludes those "mushrooms that are commercially marinated, canned, frozen, cooked, blanched, dried, packed in brine, or otherwise processed . . ." Such an inclusion of processed mushrooms is beyond the intent, authority, and scope of the Act. Therefore, the comment is denied.

United, Pictsweet Mushroom Farms, and B & C Fresh Sales requested the inclusion of a provision allowing for creditable promotion and advertising. Pictsweet, B & C Fresh Sales, Kitchen Pride Mushroom Farms, and the Office for Advocacy requested the inclusion of a provision ensuring that funds be expended by the Council into mushroom market areas in reasonable proportion to the assessments collected from producers in those areas. United, B & C Fresh Sales, and the Office for Advocacy requested the inclusion of a provision allowing for refunding of assessments. These provisions were previously denied by the Department in the January 15, 1992, issue of the **Federal Register** [57 FR 1666] because they were determined to be beyond the authority, intent, or scope of the Act.

Blue Mountain Mushroom Company, Inc. recommended that, in order to test the program, persons subject to the Act should establish a voluntary research and promotion program for an unspecified trial period. United, B & C Fresh Sales, and the Office for Advocacy recommended that persons who would be subject to the Act should be permitted to opt out of the program. These comments are denied because they are not consistent with the Act.

The American Farm Bureau Federation and the Pennsylvania Farmers' Association recommended that the program should be subject to a periodic referendum at least once every five years. In addition, both commenters recommended that the program should be subject to a referendum at any time upon petition of at least 10 percent of the producers and importers. The Act provides for a referendum five years after the effective date of the order. It also provides that the Secretary may conduct a referendum among producers and importers if requested by 30 percent or more of such producers and importers. Therefore, the commenters' specific recommendations cannot be accepted.

The American Farm Bureau Federation and the Pennsylvania Farmers' Association also addressed the issue of voting in referenda. Both commenters were in favor of a referendum prior to the implementation of any program. Such a referendum is required under Section 1926 of the Act. Both commenters also provided comments on referendum procedures. The commenters presented policy statements in support of protecting voting rights, providing uniform voting procedures, and encouraging maximum participation by producers and importers. Referenda procedures are not intended to be part of the order and as such have not been incorporated into the order.

United expressed concern that the order violates an individual's right to free association and free speech under the First Amendment of the Constitution. United also expressed concern that the order constitutes a "taking" under the Fifth Amendment of the Constitution. The Department disagrees with the commenter's views concerning the constitutionality of the order which was designed to implement the provisions of the Act.

United expressed concern that the order does not address the Council's rulemaking authority or explain whether the regulations issued by the Council will supersede regulations issued by the Department. According to Section 1933 of the Act, the Secretary may issue such regulations as are necessary to carry out the provisions of the Act. Therefore, rules and regulations to implement provisions of the Act and the order would be issued by the Department. The Council's role would be to make recommendations to the Secretary regarding such rules and regulations. The type of rules that the Council is authorized to make are those rules which would allow it to carry out its duties under the order. These would include rules such as those pertaining to the Council's day-to-day administration of the program, including bylaws, internal rules, and procedures. Pursuant to the order, all fiscal matters, programs, plans or projects, rules or regulations, reports, or other substantive actions proposed and prepared by the Council would be submitted to the Secretary for approval.

United expressed concern that the order alters provisions setting the rate of assessment by adding the words "or the equivalent thereof" to paragraphs (b) (1), (2), (3), and (4) of § 1209.51. Such a modification was made in order to accommodate the collection of assessments on imported mushrooms by the U.S. Customs Service (USCS). Since most countries exporting fresh mushrooms to the United States use the metric system, the USCS requires that assessment rates be expressed in metric weights.

United also expressed concern over the collection of assessments by the USCS on all fresh imported mushrooms regardless of their ultimate destination. As in the case of domestic mushrooms, assessment under the order would be triggered by the initial marketing of the mushrooms by the importer. The USCS would collect an assessment on mushrooms assigned number 0709.51.0000 in the Harmonized Tariff Schedule of the United States, which covers fresh mushrooms. Imported mushrooms marketed by the importer for processing would be exempt from assessment, as provided in § 1209.52 of the order. Assessment exemption procedures will be developed in rules and regulations to implement the provisions of the order.

United expressed concern that the order contains powers and duties of the Council which could be inconsistent with the intent of the Act. The Department considers the powers and duties of the Council, as stated in the proposed rule, consistent with the Act. Furthermore, in accordance with provisions of the Act and the order, many activities of the Council are subject to prior approval of the Secretary.

United also expressed concern that the order does not specifically obligate Council members to be bound by the same ethical obligations as Department appointees and employees. Section

1209.35(c) of the order adequately addresses this subject including what action the Secretary may take to remover a member.

United remarked that the order as written fails to properly protect confidential business information. The Department does not agree with this comment. Section 1209.62 of the order deals with confidential treatment and provides adequate safeguards to properly protect the books, records, and reports of producers, importers, and first handlers.

United further remarked that the order includes provisions which allow the Council to lease a producer's physical facilities. United contends that these provisions would give any such producer an unfair competitive advantage. Section 1209.38(j) of the order specifies that "* * * the Council shall not contract with any producer or importer for the purpose of mushroom promotion or research. The Council may lease physical facilities from a producer or importer for such promotion or research, if such arrangement is determined to be cost effective by the Council and approved by the Secretary * * *" The requirement that such an arrangement be first approved by the Secretary provides an adequate safeguard to ensure fairness.

The Office for Advocacy commented that the Department should further clarify the order's impact on small producers. It is the Department's view that its analysis of the order's impact on small producers was appropriate. According to the Act, a person subject to assessment under the order is one who produces or imports, on average, over 500,000 pounds of mushrooms annually. Department statistics indicate that during the period from July 1, 1990, through June 30, 1991, the average price per pound of fresh market Agaricus mushrooms was $0.981, while the average price per pound of specialty mushrooms was $3.68. Accordingly under SBA's definition of small agricultural producers as those producers having annual receipts of less than $500,000, a majority of the persons engaged in mushroom production would be exempt from assessment. The Department utilizes the latest available information collected on the mushroom industry and continuously seeks to improve its information collection methods. The potential benefits to be derived by such a program are expected to accrue to the mushroom industry as a whole, regardless of the size of the commercial operation.

In addition, the Office of Advocacy commented that the Department should perform a regulatory flexibility analysis. In discussing this matter, some of the issues raised by the Office of Advocacy are beyond the Secretary's authority and would not be consistent with the Act. It is the Department's view that such an analysis is unwarranted. A majority of small mushroom growers would be exempt from the order. Further, this action is not considered a "major-rule" under the criteria contained in Executive Order 12291.

The Office of Advocacy commented that the Department should have considered the option of not implementing an order. The declared policy of Congress, as stated in Section 1922 of the Act, is that it is in the public interest to authorize the establishment of a promotion, research, consumer information, and industry information program regarding mushrooms. In order to effectuate this policy the Secretary is directed, subject to procedures provided in Section 1924 of the Act, to issue a mushroom promotion, research, and consumer information order. In response to proposals received, and pursuant to Section 1924(b) of the Act, the Department published a proposed order for comment. Pursuant to Section 1924(b)(3) of the Act, such order will become effective only if approved by producers and importers voting in a referendum.

In addition to the preceding review and consideration of comments, editorial changes have been made to the order provisions for the purpose of clarity.

The order provisions as proposed by the Department are summarized as follows:

Sections 1209.1–1209.20 of the order define certain terms which are used in the order.

Sections 1209.30–1209.39 of the order concern the establishment, membership, nominations, appointment, term of office, vacancies, procedure, compensation and reimbursement, powers and duties of a Mushroom Council, which would be the body organized to administer the order subject to the oversight of the Secretary of Agriculture.

Section 1209.40 of the order would authorize the Council to receive, develop, and evaluate programs, plans, and projects for promotion, research, consumer information, and industry information with respect to fresh mushrooms. The Secretary would approve such programs, plans or projects prior to their implementation.

Section 1209.50 of the order would authorize the Council to incur expenses necessary for the performance of its duties and to recommend an annual budget. Section 1209.51 of the order would provide for the collection of assessments. The maximum assessment rate would be one cent per pound of fresh mushrooms produced in or imported into the United States. The assessment section also contains the procedures to be followed by first handlers and importers when remitting assessments; the procedures to be followed by producers and importers seeking exemption from assessments; the establishment of a late payment charge and interest charges for unpaid or late assessments; the collection of assessments through approved third-party organizations; and the prepayment of assessments. Section 1209.52 of the order would authorize exemption from assessment provided that certain criteria are satisfied. Section 1209.53 of the order would prohibit funds received under this program from influencing governmental action, with specified exceptions.

Sections 1209.60–1209.62 of the order contain reporting and recordkeeping requirements for persons subject to the order, and provide that all information obtained by the Council or the Department from books and reports required by the order would be kept confidential. Sections 1209.70–1209.77 of the order concern miscellaneous provisions which include the right of the Secretary; procedures for the suspension or termination of the order; proceedings after the termination of the order; effect of termination or amendment of the order; personal liability of Council members; handling of intellectual property arising from funds collected by the Council; amendments to the order; and separability of order provisions.

Referendum Order

It is hereby directed that a referendum be conducted among mushroom producers and importers to determine whether producers and importers favor the establishment of a national mushroom promotion, research, consumer information, and industry information program. Such a program would be implemented through a mushroom promotion, research, and consumer information order. The representative period for establishing voter eligibility for the referendum shall be the period from July 1, 1990, through June 30, 1992. A referendum shall be conducted from July 22, 1992, through August 12, 1992.

The Act specifies that the Secretary will conduct a referendum among mushroom producers and importers to determine whether the order shall become effective. The Act further specifies that "the order shall become

effective, * * *, if the Secretary determines that the order has been approved by a majority of the producers and importers voting in the referendum, which majority, on average, annually produces and imports into the United States more than 50 percent of the mushrooms annually produced and imported by all those voting in the referendum."

Richard Schultz and Martha B. Ransom, Research and Promotion Branch, Fruit and Vegetable Division, Agricultural Marketing Service, P.O. Box 96456, U.S. Department of Agriculture, Washington, DC 20090–6456, are designated as the referendum agents of the Secretary of Agriculture to conduct this referendum. The Procedure for the Conduct of Referenda in Connection with the Mushroom Promotion, Research, and Consumer Information Order, 7 CFR 1209.300–1209.307, which is being published separately, shall be used to conduct the referendum.

Ballots to be cast in the referendum, and any related material relevant to the referendum, will be mailed by the referendum agents to all known mushroom producers and importers. Persons who have produced or imported, on average, over 500,000 pounds of mushrooms that were marketed or imported form fresh use during the representative period are eligible to vote. Such persons shall establish their eligibility by providing information on the ballot concerning their volume of production or importation. Such information may be subject to verification. Should any eligible producer or importer not receive a ballot and related material, such producer or importer should immediately contact the referendum agents.

List of Subjects in 7 CFR Part 1209

Administrative practice and procedure, Advertising, Agricultural research, Marketing agreements, Mushrooms, Reporting and recordkeeping requirements.

It is hereby proposed that title 7 of the Code of Federal Regulations, Chapter XI be amended by adding part 1209 to read as follows:

PART 1209—MUSHROOM PROMOTION, RESEARCH, AND CONSUMER INFORMATION

Subpart A—Mushroom Promotion, Research, and Consumer Information Order

Definitions

Sec.

Mushroom Council

Promotion, Research, Consumer Information, and Industry Information

Expenses and Assessments

Reports, Books, and records

Miscellaneous

Authority: 7 U.S.C. 6101 *et seq.*

Subpart A—Mushroom Promotion, Research, and Consumer Information Order

Definitions

§ 1209.1 Act.

Act means the Mushroom Promotion, Research, and Consumer Information Act of 1990, Subtitle B of Title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101–624, 7 U.S.C. 6101–6112, and any amendments thereto.

§ 1209.2 Commerce.

Commerce means interstate, foreign, or intrastate commerce.

§ 1209.3 Consumer information.

Consumer information means information and programs that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, and use of mushrooms.

§ 1209.4 Council.

Council means the administrative body referred to as the Mushroom Council established under § 1209.30 of this subpart.

§ 1209.5 Department.

Department means the United States Department of Agriculture.

§ 1209.6 First handler.

First handler means any person who receives or otherwise acquires mushrooms from a producer and prepares for marketing or markets such mushrooms, or who prepares for marketing or markets mushrooms of that person's own production.

§ 1209.7 Fiscal year.

Fiscal year means the 12-month period from January 1 to December 31 each year, or such other period as recommended by the Council and approved by the Secretary.

§ 1209.8 Importer.

Importer means any person who imports, on average, over 500,000 pounds of mushrooms annually from outside the United States.

§ 1209.9 Industry information.

Industry information means information and programs that will lead to the development of new markets and marketing strategies, increased efficiency, and activities to enhance the image of the mushroom industry.

§ 1209.10 Marketing.

(a) *Marketing* means the sale or other disposition of mushrooms in any channel of commerce.

(b) *To market* means to sell or otherwise dispose of mushrooms in any channel of commerce.

§ 1209.11 Mushrooms.

Mushrooms means all varieties of cultivated mushrooms grown within the United States and marketed for the fresh market, or imported into the United States and marketed for the fresh market, except such term shall not include mushrooms that are commercially marinated, canned, frozen,

cooked, blanched, dried, packaged in brine, or otherwise processed in such manner as the Council, with the approval of the Secretary, may determine.

§ 1209.12 On average.

On average means a rolling average of production or imports during the last two fiscal years, or such other period as may be determined by the Secretary.

§ 1209.13 Part and subpart.

Part means this mushroom promotion and research order and all rules and regulations and supplemental orders issued thereunder, and the term *subpart* means the mushroom promotion and research order.

§ 1209.14 Person.

Person means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

§ 1209.15 Producer.

Producer means any person engaged in the production of mushrooms who owns or shares the ownership and risk of loss of such mushrooms and who produces, on average, over 500,000 pounds of mushrooms per year.

§ 1209.16 Programs, plans, and projects.

Programs, plans, and projects means promotion, research, consumer information, and industry information plans, studies, projects, or programs conducted pursuant to this part.

§ 1209.17 Promotion.

Promotion means any action determined by the Secretary to enhance the image or desirability of mushrooms, including paid advertising.

§ 1209.18 Region.

Region means one of the described geographic subdivisions of the production area described in § 1209.30(b) or as later realigned or reapportioned pursuant thereto, or the import region described in § 1209.30(c).

§ 1209.19 Research.

Research means any type of study to advance the image, desirability, safety, marketability, production, product development, quality, or nutritional value of mushrooms.

§ 1209.20 Secretary.

Secretary means the Secretary of Agriculture of the United States or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

§ 1209.21 State and United States.

(a) *State* means any of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

(b) *United States* means collectively the several States of the United States of America, the District of Columbia, and the Commonwealth of Puerto Rico.

Mushroom Council

§ 1209.30 Establishment and membership.

(a) There is hereby established a Mushroom Council of not less than four or more than nine members. The Council shall be composed of producers appointed by the Secretary under § 1209.33, except that, as provided in paragraph (c) of this section, importers shall be appointed by the Secretary to the Council under § 1209.33 once imports, on average, reach at least 35,000,000 pounds of mushrooms annually.

(b) For purposes of nominating and appointing producers to the Council, the United States shall be divided into four geographic regions and the number of Council members from each region shall be as follows:

Region 1—including Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, Ohio, Kentucky, Indiana, Michigan, Wisconsin, Illinois, Missouri, Iowa, Nebraska, Kansas, Minnesota, North Dakota, South Dakota, Montana, Colorado, and Wyoming—*2 Members*

Region 2—including Pennsylvania, Delaware, New Jersey, the District of Columbia, West Virginia, Virginia, and Maryland—*3 Members*

Region 3—including Washington, Oregon, Idaho, Utah, Arizona, California, Nevada, Alaska, and Hawaii—*3 Members*

Region 4—including New Mexico, Texas, Oklahoma, Arkansas, Louisiana, Alabama, Mississippi, Georgia, Tennessee, North Carolina, South Carolina, Florida, and the Commonwealth of Puerto Rico—*1 Member*

(c) Importers shall be represented by a single, separate region, referred to as Region 5, consisting of the United States as defined in § 1209.21(b) when imports, on average, equal or exceed 35,000,000 pounds of mushrooms annually.

(d) At least every five years, and not more than every three years, the Council shall review changes in the geographic distribution of mushroom production volume throughout the United States and import volume, using the average annual mushroom production and imports over the preceding four years, and, based on such review, shall recommend to the Secretary reapportionment of the regions established in paragraph (b) of this section, or modification of the number of members from such regions, as determined under the rules established in paragraph (e) of this section, or both, as necessary to best reflect the geographic distribution of mushroom production volume in the United States and representation of imports, if applicable.

(e) Subject to the nine-member maximum limitation, the following procedure will be used to determine the number of members for each region to serve on the Council under paragraph (d) of this section:

(1) Each region that produces, on average, at least 35,000,000 pounds of mushrooms annually shall be entitled to one representative on the Council.

(2) As provided in paragraph (c) of this section, importers shall be represented by a single, separate region, which shall be entitled to one representative, if such region imports, on average, at least 35,000,000 pounds of mushrooms annually.

(3) Each region shall be entitled to representation by an additional Council member for each 50,000,000 pounds of annual production or imports, on average, in excess of the initial 35,000,000 pounds required to qualify the region for representation.

(4) Should, in the aggregate, regions be entitled to levels of representation under paragraphs (e) (1), (2) and (3) of this section that would exceed the nine-member limit on the Council under the Act, the regions shall be entitled to representation on the Council as follows:

(i) Each region first shall be assigned one representative on the Council pursuant to paragraphs (e) (1) and (2) of this section.

(ii) Then, each region with 50,000,000 pounds of annual production or imports, on average, in excess of the initial 35,000,000 pounds required to qualify the region for representation shall be assigned one additional representative on the Council, except that if under such assignments all five regions, counting importers as a region, if applicable, would be entitled to additional representatives, that region with the smallest on-average volume, in terms of production or imports, will not be assigned an additional representative.

(iii) After members are assigned to regions under paragraphs (e)(4) (i) and (ii) of this section, if less than the entire nine seats on the Council have been assigned to regions, the remaining seats on the Council shall be assigned to each region for each 50,000,000 pound

increment of annual production or import volume, on average, in excess of 85,000,000 pounds until all the seats are filled. If for any such 50,000,000 pound increment, more regions are eligible for seats than there are seats available, the seat or seats assigned for such increment shall be assigned to that region or those regions with greater on-average production or import volume than the other regions otherwise eligible at that increment level.

(f) In determining the volume of mushrooms produced in the United States or imported into the United States for purposes of this section, the Council and the Secretary shall:

(1) only consider mushrooms produced or imported by producers and importers, respectively, as those terms are defined in §§ 1209.8 and 1209.15; and

(2) use the information received by the Council under § 1209.60, and data published by the Department.

(g) For purposes of the provisions of this section relating to the appointment of producers and importers to serve on the Council, the term *producer* or *importer* refers to any individual who is a producer or importer, respectively, or if the producer or importer is an entity other than an individual, an individual who is an officer or employee of such producer or importer.

§ 1209.31 Nominations.

All nominations for appointments to the Council under § 1209.33 shall be made as follows:

(a) As soon as practicable after this subpart becomes effective, nominations for appointment to the initial Council shall be obtained from producers by the Secretary. In any subsequent year in which an appointment to the Council is to be made, nominations for positions whose terms will expire at the end of that year shall be obtained from producers, and as appropriate, importers, and certified by the Council and submitted to the Secretary by August 1 of such year, or such other date as approved by the Secretary.

(b) Nominations shall be made at regional caucuses of producers or importers, or by mail ballot as provided in paragraph (e) of this section, in accordance with procedures prescribed in this section.

(c) Except for initial Council members, whose nomination process will be initiated by the Secretary, the Council shall issue a call for nominations by February 1 of each year in which nominations for an appointment to the Council is to be made. The call shall include, at a minimum, the following information:

(1) A list by region of the vacancies for which nominees may be submitted and qualifications as to producers and importers.

(2) The date by which the names of nominees shall be submitted to the Secretary for consideration to be in compliance with paragraph (a) of this section.

(3) A list of those States, by region, entitled to participate in the nomination process.

(4) The date, time, and location of any next scheduled meeting of the Council, and national and State producer or importer associations, if known, and of the regional caucuses, if any.

(d)(1) Except as provided in paragraph (e) of this section, nominations for each position shall be made by regional caucus in the region entitled to nominate for such position. Notice of such caucus shall be publicized to all producers or importers within the region, and to the Secretary, at least 30 days prior to the caucus. The notice shall have attached to it the call for nominations from the Council and the Department's equal opportunity policy. Except with respect to nominations for the initial appointments to the Council, the responsibility for convening and publicizing the regional caucus shall be that of the Council.

(2) All producers or importers within the region may participate in the caucus. However, if a producer is engaged in the production of mushrooms in more than one region or is also an importer, such person's participation within a region shall be limited to one vote and shall only reflect the volume of such person's production or imports within the applicable region.

(3) The regional caucus shall conduct the selection process for the nominees in accordance with procedures to be adopted at the caucus subject to the following requirements:

(i) There shall be two individuals nominated for each open position.

(ii) Each nominee shall meet the qualifications set forth in the call.

(iii) If a producer nominee is engaged in the production of mushrooms in more than one region or is also an importer, such individual shall participate within the region that such individual so elects in writing to the Council and such election shall remain controlling until revoked in writing to the Council.

(e) After the regional caucuses for the initial Council, the Council may conduct the selection of nominees by mail ballot in lieu of a regional caucus.

(f) When producers or importers are voting for nominees to the Council, whether through a regional caucus or a mail ballot, the following conditions shall apply:

(1) Voting for any open position shall be on the basis of: (i) one vote per eligible voter; and

(ii) volume of on-average production or imports of the eligible voter within that region.

(2) Whenever the producers or importers in a region are choosing nominees for one open position on the Council, the proposed nominee with the highest number of votes case and the proposed nominee with the highest volume of production or imports voted shall be the nominees submitted to the Secretary. If a proposed nominee receives both the highest number of votes cast and the highest volume of production or imports voted, then the proposed nominee with the second highest number of votes cast shall be a nominee submitted to the Secretary along with such proposed nominee receiving both the highest number of votes cast and the highest volume of production or imports voted.

(3) Whenever the producers or importers in a region are choosing nominees for more than one open position on the Council at the same time, the number of the nominations submitted to the Secretary shall equal twice the number of such open positions, and for each open position shall consist of the proposed nominee with the highest number of votes cast and the proposed nominee with the highest volume of production or imports voted with respect to that position, subject to the rule set out in paragraph (f)(2). An individual shall only be nominated for one such open position.

(4) Voters shall certify on their ballots as to their on-average production or import volume within the region involved. Such certification may be subject to verification.

(g)(1) The Secretary may reject any nominee submitted. If there are insufficient nominees from which to appoint members to the Council as a result of the Secretary's rejecting such nominees, additional nominees shall be submitted to the Secretary under the procedures set out in this section.

(2) Whenever producers or importers in a region cannot agree on nominees for an open position on the Council under the preceding provisions of this section, or whenever they fail to nominate individuals for appointment to the Council, the Secretary may appoint members in such manner as the Secretary, by regulation, determines appropriate.

§ 1209.32 Acceptance.

Each individual nominated for membership on the Council shall qualify by filing a written acceptance with the Secretary at the time of nomination.

§ 1209.33 Appointment.

From the nominations made pursuant to § 1209.31, the Secretary shall appoint the members of the Council on the basis of representation provided for in § 1209.30, except that no more than one member may be appointed to the Council from nominations submitted by any one producer or importer.

§ 1209.34 Term of office.

(a) The members of the Council shall serve for terms of three years, except that the members appointed to the initial Council shall serve, proportionately, for terms of one, two, and three years.

(b) Members of the initial Council shall be designated for, and shall serve, terms as follows: One producer member each from regions 1, 2 and 3 shall be appointed for an initial term of one year; one producer member each from regions, 1, 2, and 3 shall be appointed for an initial term of two years; and one producer member each from regions 2, 3, and 4 shall be appointed for an initial term of three years. Because current imports of fresh mushrooms are less than 35,000,000 pounds, the minimum established for representation on the Council, importers will not initially have a member appointed to the Council.

(c)(1) Except with respect to terms of office of the initial Council, the term of office for each member of the Council shall begin on January 1 or such other date that may be approved by the Secretary.

(2) The term of office for the initial Council shall begin immediately following appointment by the Secretary, except that time in the interim period from appointment until the following January 1, or such other date that is the generally applicable beginning date for terms under paragraph (c)(1) of this section approved by the Secretary, shall not count toward the initial term of office.

(d) Council members shall serve during the term of office for which they are appointed and have qualified, and until their successors are appointed and have qualified.

(e)(1) No member shall serve more than two successive three-year terms, except as provided in paragraph (e)(2)(ii) of this section.

(2)(i) Those members serving initial terms of two or three years may serve one successive three-year term.

(ii) Those members serving initial terms of one year may serve two successive three-year terms.

§ 1209.35 Vacancies.

(a) To fill any vacancy occasioned by the death, removal, resignation, or disqualification of any member of the Council, the Secretary may appoint a successor from the most recent nominations submitted for open positions on the Council assigned to the region that the vacant position represents, or the Secretary may obtain nominees to fill such vacancy in such manner as the Secretary, by regulation, deems appropriate. Each such successor appointment shall be for the remainder of the term vacated. A vacancy will not be required to be filled if the unexpired term is less than six months.

(b)(1) No successor appointed to a vacated term of office shall serve more than two successive three-year terms on the Council, except as provided in paragraph (b)(2)(ii) of this section.

(2)(i) Any successor serving longer than one year may serve one successive three-year term.

(ii) Any successor serving one year or less may serve two successive three-year terms.

(c) If a member of the Council consistently refuses to perform the duties of a member of the Council, or if a member of the Council is known to be engaged in acts of dishonesty or willful misconduct, the Council may recommend to the Secretary that the member be removed from office. If the Secretary finds the recommendation of the Council shows adequate cause, the Secretary shall remove such member from office. Further, without recommendation of the Council, a member may be removed by the Secretary upon showing of adequate cause, including the failure by a member to submit reports or remit assessments required under this part, if the Secretary determines that such member's continued service would be detrimental to the achievement of the purposes of the Act.

§ 1209.36 Procedure.

(a) At a properly convened meeting of the Council, a majority of the members shall constitute a quorum.

(b) Each member of the Council will be entitled to one vote on any matter put to the Council, and the motion will carry if supported by a simple majority of those voting. At assembled meetings of the Council, all votes will be cast in person.

(c) In lieu of voting at a properly convened meeting and, when in the opinion of the chairperson of the Council such action is considered necessary, the Council may take action upon the concurring votes of a majority of its members by mail, telephone, telegraph, or any other means of communication, but any such action shall be confirmed promptly in writing. In that event, all members must be notified and provided the opportunity to vote. Any action so taken shall have the same force and effect as though such action had been taken at a properly convened meeting of the Council. All votes shall be recorded in Council minutes.

(d) Meetings of the Council may be conducted by electronic communications, provided that each member is given prior notice of the meeting and has an opportunity to be present either physically or by electronic connection.

(e) The organization of the Council and the procedures for conducting meetings of the Council shall be in accordance with its bylaws, which shall be established by the Council and approved by the Secretary.

§ 1209.37 Compensation and reimbursement.

The members of the Council shall serve without compensation but shall be reimbursed for necessary and reasonable expenses, including a reasonable per diem allowance, as approved by the Council and the Secretary, incurred by such members in the performance of their responsibilities under this subpart.

§ 1209.38 Powers.

The Council shall have the following powers:

(a) To receive and evaluate or, on its own initiative, develop and budget for proposed programs, plans, or projects to promote the use of mushrooms, as well as proposed programs, plans, or projects for research, consumer information, or industry information, and to make recommendations to the Secretary regarding such proposals;

(b) To administer the provisions of this subpart in accordance with its terms and provisions;

(c) To appoint or employ such individuals as it may deem necessary, define the duties, and determine the compensation of such individuals;

(d) To make rules and regulations to effectuate the terms and provisions of this subpart;

(e) To receive, investigate, and report to the Secretary for action complaints of violations of the provisions of this subpart;

(f) To disseminate information to producers, importers, first handlers, or industry organizations through programs or by direct contact using the public postal system or other systems;

(g) To select committees and subcommittees of Council members, including an executive committee whose powers and membership shall be determined by the Council, subject to the approval of the Secretary, and to adopt such bylaws and other rules for the conduct of its business as it may deem advisable;

(h) To establish committees which may include individuals other than Council members, and pay the necessary and reasonable expenses and fees of the members of such committees;

(i) To recommend to the Secretary amendments to this subpart;

(j) With the approval of the Secretary, to enter into contracts or agreements with national, regional, or State mushroom producer organizations, or other organizations or entities, for the development and conduct of programs, plans, or projects authorized under § 1209.40 and with such producer organizations for other services necessary for the implementation of this subpart, and for the payment of the cost thereof with funds collected and received pursuant to this subpart. The Council shall not contract with any producer or importer for the purpose of mushroom promotion or research. The Council may lease physical facilities from a producer or importer for such promotion or research, if such an arrangement is determined to be cost effective by the Council and approved by the Secretary. Any contract or agreement shall provide that:

(1) The contractor or agreeing party shall develop and submit to the Council a program, plan, or project together with a budget or budgets that shall show the estimated cost to be incurred for such program, plan, or project;

(2) Any such program, plan, or project shall become effective upon approval of the Secretary;

(3) The contracting or agreeing party shall keep accurate records of all of its transactions and make periodic reports to the Council of activities conducted, submit accountings for funds received and expended, and make such other reports as the Secretary or the Council may require; and the Secretary may audit the records of the contracting or agreeing party periodically; and

(4) Any subcontractor who enters into a contract with a Council contractor and who receives or otherwise uses funds allocated by the Council shall be subject to the same provisions as the contractor;

(k) With the approval of the Secretary, to invest, pending disbursement pursuant to a program, plan, or project, funds collected through assessments provided for in § 1209.51, and any other funds received by the Council in, and only in, obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States;

(l) Such other powers as may be approved by the Secretary; and

(m) To develop and propose to the Secretary voluntary quality and grade standards for mushrooms, if the Council determines that such quality and grade standards would benefit the promotion of mushrooms.

§ 1209.39 Duties.

The Council shall have the following duties:

(a) To meet not less than annually, and to organize and select from among its members a chairperson and such other officers as may be necessary;

(b) To evaluate or develop, and submit to the Secretary for approval, promotion, research, consumer information, and industry information programs, plans, or projects;

(c) To prepare for each fiscal year, and submit to the Secretary for approval at least 60 days prior to the beginning of each fiscal year, a budget of its anticipated expenses and disbursements in the administration of this subpart, as provided in § 2109.50.

(d) To maintain such books and records, which shall be available to the Secretary for inspection and audit, and to prepare and submit such reports from time to time to the Secretary, as the Secretary may prescribe, and to make appropriate accounting with respect to the receipt and disbursement of all funds entrusted to it;

(e) To prepare and make public, at least annually, a report of its activities carried out, and an accounting for funds received and expended;

(f) To cause its financial statements to be prepared in conformity with generally accepted accounting principles and to be audited by an independent certified public accountant in accordance with generally accepted auditing standards at least once each fiscal year and at such other times as the Secretary may request, and submit a copy of each such audit to the Secretary;

(g) To give the Secretary the same notice of meetings of the Council as is given to members in order that the Secretary, or a representative of the Secretary, may attend such meetings;

(h) To submit to the Secretary such information as may be requested pursuant to this subpart;

(i) To keep minutes, books, and records that clearly reflect all the acts and transactions of the Council. Minutes of each Council meeting shall be promptly reported to the Secretary;

(j) To act as intermediary between the Secretary and any producer or importer;

(k) To follow the Department's equal opportunity/civil rights policies; and

(l) To work to achieve an effective, continuous, and coordinated program of promotion, research, consumer information, and industry information designed to strengthen the mushroom industry's position in the marketplace, maintain and expand existing markets and uses for mushrooms, develop new markets and uses for mushrooms, and to carry out programs, plans, and projects designed to provide maximum benefits to the mushroom industry.

Promotion, Research, Consumer Information, and Industry Information

§ 1209.40 Programs, plans, and projects.

(a) The Council shall receive and evaluate, or on its own initiative develop, and submit to the Secretary for approval any program, plan, or project authorized under this subpart. Such programs, plans, or projects shall provide for:

(1) The establishment, issuance, effectuation, and administration of appropriate programs for promotion, research, consumer information, and industry information with respect to mushrooms; and

(2) The establishment and conduct of research with respect to the sale, distribution, marketing, and use of mushrooms and mushroom products, and the creation of new products thereof, to the end that marketing and use of mushrooms may be encouraged, expanded, improved or made more acceptable. However, as prescribed by the Act, nothing in this subpart may be construed to authorize mandatory requirements for quality control, grade standards, supply management programs, or other programs that would control production or otherwise limit the right of individual producers to produce mushrooms.

(b) No program, plan, or project shall be implemented prior to its approval by the Secretary. Once a program, plan, or project is so approved, the Council shall take appropriate steps to implement it.

(c) Each program, plan, or project implemented under this subpart shall be reviewed or evaluated periodically by the Council to ensure that it contributes to an effective program of promotion, research, consumer information, or industry information. If it is found by the Council that any such program, plan, or project does not contribute to an effective program of promotion, research, consumer information, or industry information, then the Council shall terminate such program, plan, or project.

(d) In carrying out any program, plan, or project, no reference to a brand name, trade name, or State or regional identification of any mushrooms or mushroom product shall be made. In addition, no program, plan, or project shall make use of unfair or deceptive acts or practices with respect to the quality, value, or use of any competing product.

Expenses and Assessments

§ 1209.50 Budget and expenses.

(a)(1) At least 60 days prior to the beginning of each fiscal year, and as may be necessary thereafter, the Council shall prepare and submit to the Secretary a budget for the fiscal year covering its anticipated expenses and disbursements in administering this subpart. Each such budget shall include:

(i) A statement of objectives and strategy for each program, plan, or project;

(ii) A summary of anticipated revenue, with comparative data for at least one preceding year;

(iii) A summary of proposed expenditures for each program, plan, or project; and

(iv) Staff and administrative expense breakdowns, with comparative data for at least one preceding year. Each budget shall include a rate of assessment for such fiscal year calculated, subject to § 1209.51(b), to provide adequate funds to defray its proposed expenditures and to provide for a reserve as set forth in paragraph (f) of this section. The Council may change such rate at any time, as provided in § 1209.51(b)(5).

(2)(i) Subject to paragraph (a)(2)(ii) of this section, any amendment or addition to an approved budget must be approved by the Secretary, including shifting of funds from one program, plan, or project to another.

(ii) Shifts of funds which do not cause an increase in the Council's approved budget and which are consistent with governing bylaws need not have prior approval by the Secretary.

(b) The Council is authorized to incur such expenses, including provisions for a reasonable reserve, as the Secretary finds are reasonable and likely to be incurred by the Council for its maintenance and functioning, and to enable it to exercise its powers and perform its duties in accordance with the provisions of this subpart. Such expenses shall be paid from funds received by the Council.

(c) The Council shall not use funds collected or received under this subpart to reimburse, defray, or make payment of expenditures incurred in developing, drafting, studying, lobbying on or promoting the legislation authorizing this subpart. Such prohibition includes reimbursement, defrayment, or payment to mushroom industry associations or organizations, producers or importers, lawyers, law firms, or consultants.

(d) The Council may accept voluntary contributions, but these shall only be used to pay expenses incurred in the conduct of programs, plans, and projects. Such contributions shall be free from any encumbrance by the donor and the Council shall retain complete control of their use. The donor may recommend that the whole or a portion of the contribution be applied to an ongoing program, plan, or project.

(e) The Council shall reimburse the Secretary, from funds received by the Council, for administrative costs incurred by the Secretary in implementing and administering this subpart, except for the salaries of Department employees incurred in conducting referenda.

(f) The Council may establish an operating monetary reserve and may carry over to subsequent fiscal periods excess funds in any reserve so established, except that the funds in the reserve shall not exceed approximately one fiscal year's expenses. Such reserve funds may be used to defray any expenses authorized under this subpart.

(g) With the approval of the Secretary, the Council may borrow money for the payment of administrative expenses, subject to the same fiscal, budget, and audit controls as other funds of the Council.

§ 1209.51 Assessments.

(a) Any first handler initially purchasing, or otherwise placing into the current of commerce, mushrooms produced in the United States shall, in the manner as prescribed by the Council and approved by the Secretary, collect an assessment based upon the number of pounds of mushrooms marketed in the United States for the account of the producer, and remit the assessment to the Council.

(b) The rate of assessment effective during any fiscal year shall be the rate specified in the budget for such fiscal year approved by the Secretary, except that:

(1) The rate of assessment during the first year this subpart is in effect shall be one-quarter of one cent per pound of mushrooms marketed, or the equivalent thereof.

(2) The rate of assessment during the second year this subpart is in effect shall not exceed one-third of one cent per pound of mushrooms marketed, or the equivalent thereof.

(3) The rate of assessment during the third year this subpart is in effect shall not exceed one-half of one cent per pound of mushrooms marketed, or the equivalent thereof.

(4) The rate of assessment during each of the fourth and following years this subpart is in effect shall not exceed one cent per pound of mushrooms marketed, or the equivalent thereof.

(5) The Council may change the rate of assessment for a fiscal year at any time with the approval of the Secretary as necessary to reflect change circumstances, except that any such changed rate may not exceed the level of assessment specified in paragraphs (b)(1), (2), (3), or (4) of this section, whichever is applicable.

(c) Any person marketing mushrooms of that person's own production to consumers in the United States, either directly or through retail or wholesale outlets, shall be considered a first handler and shall remit to the Council an assessment on such mushrooms at the rate per-pound then in effect, and in such form and manner prescribed by the Council.

(d) Only one assessment shall be paid on each unit of mushrooms marketed.

(e)(1) Each importer of mushrooms shall pay an assessment to the Council on mushrooms imported for marketing in the United States, through the U.S. Customs Service or in such other manner as may be established by rules and regulations approved by the Secretary.

(2) The per-pound assessment rate for imported mushrooms shall be the same as the rate provided for mushrooms produced in the United States.

(3) The import assessment shall be uniformly applied to imported mushrooms that are identified by the number, 0709.51.0000, in the Harmonized Tariff Schedule of the United States or any other number used to identify fresh mushrooms.

(4) The assessments due on imported mushrooms shall be paid when the mushrooms are entered or withdrawn for consumption in the United States, or at such other time as may be established

by rules and regulations prescribed by the Council and approved by the Secretary and under such procedures as are provided in such rules and regulations.

(5) Only one assessment shall be paid on each unit of mushrooms imported.

(f) The collection of assessments under this section shall commence on all mushrooms marketed in or imported into the United States on or after the date established by the Secretary, and shall continue until terminated by the Secretary. If the Council is not constituted on the date the first assessments are to be collected, the Secretary shall have the authority to receive assessments on behalf of the Council and may hold such assessments until the Council is constituted, then remit such assessments to the Council.

(g)(1) Each person responsible for remitting assessments under paragraphs (a), (c), or (e) of this section shall remit the amounts due from assessments to the Council on a monthly basis no later than the fifteenth day of the month following the month in which the mushrooms were marketed, in such manner as perscribed by the Council.

(2)(i) A late payment charge shall be imposed on any person that fails to remit to the Council the total amount for which the person is liable on or before the payment due date established under this section. The amount of the late payment charge shall be prescribed in rules and regulations as approved by the Secretary.

(ii) An additional charge shall be imposed on any person subject to a late payment charge, in the form of interest on the outstanding portion of any amount for which the person is liable. The rate of interest shall be prescribed in rules and regulations as approved by the Secretary.

(3) Any assessment that is determined to be owing at a date later than the payment due date established under this section, due to a person's failure to submit a report to the Council by the payment due date, shall be considered to have been payable on the payment due date. Under such a situation, paragraphs (g)(2)(i) and (g)(2)(ii) of this section shall be applicable.

(h) The Council, with the approval of the Secretary, may enter into agreements authorizing other organizations to collect assessments in its behalf. Any such organization shall be required to maintain the confidentiality of such information as is required by the Council for collection purposes. Any reimbursement by the Council for such services shall be based on reasonable charges for services rendered.

(i) The Council is hereby authorized to accept advance payment of assessments for the fiscal year by any person, that shall be credited toward any amount for which such person may become liable. The Council shall not be obligated to pay interest on any advance payment.

§ 1209.52 Exemption from assessment.

(a) Persons that produce or import, on average, 500,000 pounds or less of mushrooms annually shall be exempted from assessment.

(b) To claim such exemption, such persons shall apply to the Council, in the form and manner prescribed in the rules and regulations.

(c) Mushrooms produced in the United States that are exported are exempt from assessment and are subject to such safeguards as prescribed in rules and regulations to prevent improper use of this exemption.

(d) Domestic and imported mushrooms used for processing are exempt from assessment and are subject to such safeguards as prescribed in rules and regulations to prevent improper use of this exemption.

§ 1209.53 Influencing governmental action.

No funds received by the Council under this subpart shall in any manner be used for the purpose of influencing legislation or governmental policy or action, except to develop and recommend to the Secretary amendments to this subpart, and to submit to the Secretary proposed voluntary grade and quality standards for mushrooms.

Reports, Books and Records

§ 1209.60 Reports.

(a) Each producer marketing mushrooms of that person's own production directly to consumers, and each first handler responsible for the collection of assessments under § 1209.51(a) shall be required to report monthly to the Council, on a form provided by the Council, such information as may be required under this subpart or any rules and regulations issued thereunder. Such information shall include, but not be limited to, the following:

(1) The first handler's name, address, and telephone number;

(2) Date of report, which is also the date of payment to the Council;

(3) Period covered by the report;

(4) The number of pounds of mushrooms purchased, initially transferred, or that in any other manner are subject to the collection of assessments, and a copy of a certificate of exemption, claiming exemption under § 1209.52 from those who claim such exemptions;

(5) The amount of assessments remitted; and

(6) The basis, if necessary, to show why the remittance is less than the number of pounds of mushrooms determined under paragraph (a)(4) of this section multiplied by the applicable assessment rate.

(b) If determined necessary by the Council and approved by the Secretary, each importer shall file with the Council periodic reports, on a form provided by the Council, containing at least the following information:

(1) The importer's name, address, and telephone number;

(2) The quantity of mushrooms entered or withdrawn for consumption in the United States during the period covered by the report; and

(3) The amount of assessments paid to the U.S. Customs Service at the time of such entry or withdrawal.

(c) The words *final report* shall be shown on the last report at the end of each fiscal year.

§ 1209.61 Books and records.

Each person who is subject to this subpart shall maintain and make available for inspection by the Council or the Secretary such books and records as are deemed necessary by the Council, with the approval of the Secretary, to carry out the provisions of this subpart and any rules and regulations issued hereunder, including such books and records as are necessary to verify any reports required. Such books and records shall be retained for at least two years beyond the fiscal year of their applicability.

§ 1209.62 Confidential treatment.

All information obtained from books, records, or reports under the Act, this subpart, and the rules and regulations issued thereunder shall be kept confidential by all persons, including all employees and former employees of the Council, all officers and employees and former officers and employees of the Department, and all officers and employees and former officers and employees of contracting and subcontracting agencies or agreeing parties having access to such information. Such information shall not be available to Council members, producers, importers, or first handlers. Only those persons having a specific need for such information to effectively administer the provisions of this subpart shall have access to such information. Only such information so obtained as the Secretary deems relevant shall be

disclosed by them, and then only in a suit or administrative hearing brought at the direction, or on the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving this subpart. Nothing in this section shall be deemed to prohibit:

(a) The issuance of general statements based upon the reports of the number of persons subject to this subpart or statistical data collected therefrom, which statements do not identify the information furnished by any person; and

(b) The publication, by direction of the Secretary, of the name of any person who has been adjudged to have violated this subpart, together with a statement of the particular provisions of this subpart violated by such person.

Miscellaneous

§ 1209.70 Right of the Secretary.

All fiscal matters, programs, plans, or projects, rules or regulations, reports, or other substantive actions proposed and prepared by the Council shall be submitted to the Secretary for approval.

§ 1209.71 Suspension or termination.

(a) Whenever the Secretary finds that this subpart or any provision thereof obstructs or does not tend to effectuate the declared policy of the Act, the Secretary shall terminate or suspend the operation of this subpart or such provision thereof.

(b)(1) Five years after the date on which this subpart becomes effective, the Secretary shall conduct a referendum among producers and importers to determine whether they favor continuation, termination, or suspension of this subpart.

(2) Effective beginning three years after the date on which this subpart becomes effective, the Secretary, on request of a representative group comprising 30 percent or more of the number of mushroom producers and importers, may conduct a referendum to determine whether producers and importers favor termination or suspension of this subpart.

(3) Whenever the Secretary determines that suspension or termination of this subpart is favored by a majority of the mushroom producers and importers voting in a referendum under paragraphs (b) (1) or (2) of this section who, during a representative period determined by the Secretary, have been engaged in producing and importing mushrooms and who, on average, annually produced and imported more than 50 percent of the volume of mushrooms produced and imported by all those producers and importers voting in the referendum, the Secretary shall:

(i) Suspend or terminate, as appropriate, collection of assessments within six months after making such determination; and

(ii) Suspend or terminate, as appropriate, all activities under this subpart in an orderly manner as soon as practicable.

(4) Referenda conducted under this subsection shall be conducted in such manner as the Secretary may prescribe.

§1209.72 Proceedings after termination.

(a) Upon the termination of this subpart, the Council shall recommend not more than five of its members to the Secretary to serve as trustees for the purpose of liquidating the affairs of the Council. Such persons, upon designation by the Secretary, shall become trustees of all the funds and property owned, in the possession of, or under the control of the Council, including any claims unpaid or property not delivered, or any other claim existing at the time of such termination.

(b) The trustees shall:

(1) Continue in such capacity until discharged by the Secretary;

(2) Carry out the obligations of the Council under any contract or agreement entered into by it under this subpart;

(3) From time to time account for all receipts and disbursements, and deliver all property on hand, together with all books and records of the Council and of the trustees, to such persons as the Secretary may direct; and

(4) Upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such persons full title and right to all of the funds, property, and claims vested in the Council or the trustees under this subpart.

(c) Any person to whom funds, property, or claims have been transferred or delivered under this subpart shall be subject to the same obligations imposed upon the Council and upon the trustees.

(d) Any residual funds not required to defray the necessary expenses of liquidation shall be turned over to the Secretary to be used, to the extent practicable, in the interest of continuing one or more of the promotion, research, consumer information, or industry information programs, plans, or projects authorized under this subpart.

§ 1209.73 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any rule and regulation issued under this subpart, or the issuance of any amendment to such provisions, shall not:

(a) Affect or waive any right, duty, obligation, or liability that shall have arisen or may hereafter arise in connection with any provision of this subpart or any such rules or regulations;

(b) Release or extinguish any violation of this subpart or any such rules or regulations; or

(c) Affect or impair any rights or remedies of the United States, the Secretary, or any person with respect to any such violation.

§ 1209.74 Personal liability.

No member or employee of the Council shall be held personally responsible, either individually or jointly, in any way whatsoever, to any person for errors in judgement, mistakes, or other acts of either commission or omission of such member or employee under this subpart, except for acts of dishonesty or willful misconduct.

§ 1209.75 Patents, copyrights, inventions, publications, and product formulations.

Any patents, copyrights, inventions, publications, or product formulations developed through the use of funds received by the Council under this subpart be the property of the United States Government as represented by the Council and shall, along with any rents, royalties, residual payments, or other income from the rental, sale, leasing, franchising, or other uses of such patents, copyrights, inventions, publications, or product formulations inure to the benefit of the Council and be considered income subject to the same fiscal, budget, and audit controls as other funds of the Council. Upon termination of this subpart, § 1209.72 shall apply to determine disposition of all such property.

§ 1209.76 Amendments.

Amendments to this subpart may be proposed, from time to time, by the Council or by any interested person affected by the provisions of the Act, including the Secretary.

§ 1209.77 Separability.

If any provision of this subpart is declared invalid, or the applicability thereof to any person or circumstances is held invalid, the validity of the remainder of this subpart or the applicability thereof to other persons or circumstances shall not be affected thereby.

Dated: June 3, 1992.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 92–13425 Filed 6–9–92; 8:45 am]

BILLING CODE 3410–02–M

federal register

Wednesday
June 10, 1992

Part IV

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Harvest Information Program; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018-AB65

Migratory Bird Harvest Information Program

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service (hereinafter the Service) is proposing to establish a national Migratory Bird Harvest Information Program (hereinafter Program). This Program would improve harvest estimates by requiring all migratory game bird hunters to supply their names and addresses in order to provide a sampling frame for a voluntary national harvest survey. All migratory game bird hunters would be required to have evidence that they have provided their name and address to their State wildlife agency in their possession while hunting migratory birds.

DATES: The comment period for the intended establishment of a Migratory Bird Harvest Information Program will end on July 10, 1992.

ADDRESSES: Written comments should be sent to: (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Office of Migratory Bird Management, 10800 Laurel-Bowie Road, Laurel, Maryland 20708–3600. Comments received will be available for public inspection during normal business hours in Building 158, 10800 Laurel-Bowie Road (Gate 4, Patuxent Wildlife Research Center), Laurel, Maryland.

FOR FURTHER INFORMATION CONTACT: Paul H. Geissler, Chief, Waterfowl Harvest Surveys Section, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, 10800 Laurel-Bowie Road, Laurel, Maryland 20708–3600, (301) 317–6300, FAX (301) 317–6301.

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918, as amended, (16 U.S.C. 703–712), directs the Secretary of the Interior to periodically consider whether and how to permit hunting of migratory game birds. The Fish and Wildlife Service Act of August 8, 1956, as amended, (16 U.S.C. 742a–d and e–j) more specifically authorizes collection of such information as is necessary to determine appropriate regulations. This rule would facilitate the collection of needed migratory game bird harvest information.

This Program would include revision of the migratory bird hunting regulations to require all migratory game bird hunters to provide annually their names, addresses, and birth dates as a condition for hunting migratory game birds. This information would provide a sampling frame for the national Migratory Bird Harvest Survey.

Since publishing the Notice of Intent in the June 24, 1991, **Federal Register** (56 FR 28812) which opened the public comment period for the establishment of the Migratory Bird Harvest Information Program, the Service has considered several options to obtain the necessary information. One option would have minimized the impact on a State's licensing procedures by providing a separate system that would have operated in parallel with the State's hunting-license system. However, that option would have required a migratory bird hunter to carry a separate card as evidence of providing his or her name and address. The hunter would have had to provide duplicate information on the State license application and on a harvest-information form, and the license agent would have had to process a separate transaction. A second option would integrate a harvest-information system into the State's hunting-license system. This option would avoid duplication and reduce costs, but may require major changes to State licensing procedures. States would have better access to the names and addresses of their hunters and would be able to provide better service to these customers. State and Federal surveys could be coordinated to avoid asking a hunter to participate in both surveys. The Service recognizes that it may be difficult for some States to implement the second option, but the advantages of reducing costs and hunter burdens while improving State access to hunters' names and addresses supports this approach. Therefore, the Service proposes the second option in order to avoid duplicate Federal and State systems.

The Service plans to implement and study this Program starting with a 2-year experimental phase in three volunteer States in 1992. After evaluation of this experimental phase during 1994, and consideration of proposed changes, other States would be phased into the Program, with about 1 million migratory game bird hunters added each year. The States with the most migratory game bird hunters would participate in the Program first. States may participate in the Program earlier than their scheduled date if they wish, provided they notify the Service in advance. Under the following proposed schedule, all persons hunting migratory game birds in the respective States would be required to have on their person evidence of current participation in the Program after July 1 of the years indicated:

1992: (Experimental Phase) California, Missouri, and South Dakota.
1993: Pennsylvania.
1994: Texas.
1995: Louisiana, Georgia, and Minnesota.
1996: Alabama, North Carolina, Mississippi, Oklahoma, Illinois, Tennessee, and Michigan.
1997: South Carolina, Florida, Wisconsin, Arkansas, Colorado, Virginia, Maryland, Arizona, and Kentucky.
1998: New York, Washington, Kansas, Utah, Oregon, Nebraska, Idaho, Indiana, Iowa, North Dakota, New Jersey, Ohio, Massachusetts, Maine, Nevada, New Mexico, Wyoming, Montana, Alaska, Connecticut, West Virginia, New Hampshire, Delaware, Vermont, and Rhode Island.

The Program will be evaluated after the 2-year experimental phase to determine the adequacy and timeliness of the sample and the time burden, cost, and other impacts on hunters, State license agents, State wildlife agencies, and the Service. The approaches used in different States will be compared. Alternative survey designs will be investigated, and the U.S. Bureau of the Census will be asked to review the survey procedures.

Under the Service's proposal, States would continue to print State licenses or permits and distribute them to their license agents. All migratory game bird hunters would have a unique identifying number or State validation printed on their annual State hunting license or permit. The State might charge hunters a small handling fee to compensate agents and to cover the State's administrative costs associated with implementing this Program. A migratory bird hunter would not be required to obtain evidence of Program participation in more than one State per year.

State license agents would account for all validated licenses and would validate licenses only for hunters who provide their names, addresses, and birth dates. Agents would ask hunters to answer the following questions:

1. Do you plan to hunt migratory birds during [season]? [This screening question is needed only if a State asks all hunters to provide the above information. Only migratory bird hunters would be asked the following questions.]

2. Is this the first license you have had validated for hunting migratory birds this hunting season? ____ Yes ____ No

3. Did you hunt these birds last season in the U.S.?

____Ducks ____Mourning doves
____Geese ____White-winged doves
____Cranes ____Band-tailed pigeons
____Coots ____Woodcock

___Snipe ___Gallinules
___Rails

4. How many did you bag last season in the U.S.?

	None	1-5	6-10	11-30	31+
Ducks	____	____	____	____	____
Geese	____	____	____	____	____
Doves	____	____	____	____	____
Woodcock	____	____	____	____	____

States would develop adequate control procedures to ensure that agents (1) account for all validated licenses; (2) promptly provide the State with names, addresses, and other information; (3) have a low proportion of incomplete or illegible information; and (4) return information from all migratory game bird hunters.

States would provide the Service with migratory game bird hunters' State license numbers, county (or 5-digit ZIP code) where the licenses were issued, issue dates, names, addresses, birth dates, and their answers to the above questions in an acceptable form (diskette or machine-scannable paper form) within 5 days of issuance (10 days if the information is on diskette). The information is needed in time for the Service to contact survey participants and ask them to keep records of their migratory game bird hunting.

To protect hunters' privacy, it would be the policy of the Service to use the names and addresses only for conducting hunter surveys and for no other purpose. All records of hunters' names and addresses would be deleted after each year's surveys, and no permanent record of names and addresses would be maintained by the Service.

States would provide the Service with a report by April 15 each year of the total numbers of migratory bird hunters by county (or 5-digit ZIP Code) and the State license numbers for licenses issued to migratory bird hunters in each county (or 5-digit ZIP code). If that report is not complete, States would provide the Service with a corrected report by October 1. The Service would conduct post-season surveys and provide migratory game bird harvest and waterfowl age- and sex-ratio estimates prior to the development of the annual hunting regulations. Survey procedures would be the same as those for the existing Waterfowl Harvest Surveys except that the sampling frame would be derived from the State license- or permit-holders instead of from Federal Duck-Stamp purchasers. A separate survey would be conducted for duck, goose, and coot hunting; for dove, woodcock, and band-tailed pigeon hunting; and for snipe, rail, gallinule, and crane hunting to reduce the burden on individual respondents. No one would be asked to participate in more than one survey.

Written Comments Received

The Notice of Intent published in the **Federal Register** dated June 24, 1991 (56 FR 28812), opened the public comment period for the establishment of the Migratory Bird Harvest Information Program. As of August 28, 1991, the Service had received 38 comments, including comments from 19 State wildlife agencies and 1 Flyway Council. All supported the need for better migratory game bird harvest information, and almost all suggested changes in the proposal. Seventeen agencies supported the Program in some form and two opposed it. Comments were received from two non-governmental organizations that supported some form of the Program. Biologists and statisticians from 11 State wildlife agencies, 2 universities, and 1 consulting firm offered suggestions, and 2 citizens provided suggestions. Responses to all comments will be included in the final rule.

The Alabama Department of Conservation and Natural Resources recognized the need for collecting and analyzing data for migratory birds. Alabama believed the Program should provide the necessary data if hunters support it. Otherwise, the data would be of questionable accuracy and value. Legislative approval of hunter fees to recover State costs would be difficult. Migratory bird hunters who are not required to purchase an annual State license (those over 65, under 16, hunting on their own land, and lifetime license holders) might not know about the requirement and then be prosecuted. Lifetime license holders in Alabama have been advised previously that no additional fee would be imposed upon them. Alabama felt that data from annually licensed hunters should be sufficient with today's statistical techniques.

The Arizona Game and Fish Department suggested that crow hunting should be included in the survey. Under Arizona statutes, dealers realize 5% of the value of permits issued; however, the Harvest Information Card, as proposed, would not have a monetary value. Legislative action would be required to increase the agent commission. Arizona thought that limiting a hunter to one questionnaire would bias the survey. Dove harvest data should be compiled according to season segment.

The Arkansas Game and Fish Commission endorsed the Program and supported the incorporation of sufficient flexibility within the system to accommodate the variety of licensing systems used by the States.

The California Department of Fish and Game supported a system which enables the cooperative use of hunter data for purposes of conducting statistically valid surveys designed to improve migratory bird harvest monitoring, and conceptually supported the Program. The principal objective is to provide information necessary for adequate Federal waterfowl harvest surveys with little added burden to California hunters and license vendors, thereby ensuring their collective cooperation. California suggested a check-off on the State hunting license to indicate participation instead of a separate card. They felt that the requirement for vendors to return Survey cards within four days is unrealistic.

The Central Flyway Council supported the implementation of the Program. Improvement of our data bases for all migratory birds, including webless species, is important for the sound management of the Central Flyway's migratory bird resources.

The Florida Game and Fresh Water Fish Commission endorsed the Program because the changes are needed to resolve problems with the sampling frame for migratory bird hunters and improve harvest information. It is important to conduct the Program in a manner that would (1) minimize inconvenience to migratory bird hunters in Florida, (2) ensure that Florida would have timely access to the names and addresses of migratory bird hunters for their own hunter survey needs, and (3)

provide reliable information on migratory bird harvests in Florida.

The Game and Fish Division, Georgia Department of Natural Resources, agreed with the need for reliable harvest data. Georgia felt that funding should be 100% Federal because surveys are a Federal responsibility. State funds are not available, and increasing fees on hunters would risk driving casual hunters from the sport at a time when sales of hunting licenses are declining. Georgia believed that voluntary compliance should be adequate, and that returns by vendors should be required by the tenth day of the month, following issuance.

The Illinois Department of Conservation suggested that the Service sell both the Federal Duck Stamp and the Harvest Information Card through State vendors. They felt that the cost for the Card should be no more than the ventor's cost for those who buy a Federal Duck Stamp. Cards could not be combined with the Illinois license because senior and disabled hunters are exempted from the license. Responsibilities for ensuring vendor compliance should be specified. Illinois suggested that State agencies generate mailing labels for the Service to mail cards to the vendors. Agencies would assist the Service in following-up with delinquent vendors, and would distribute Cards to new vendors.

The Fish and Wildlife Division, Iowa Department of Natural Resources supported the Program. Iowa hunting licenses are sold on a calendar-year basis and materials need to be delivered to be available before December 1. They requested that Iowa's snipe, rail, and woodcock hunters be exempted from the Program because so few hunt these species that the survey would be ineffective. These species are taken opportunistically by hunters pursuing resident species and consequently the Program would create an unnecessary burden on them. Obtaining vendor compliance with reporting dates would be difficult, and the State does not wish to become involved in enforcing deadlines.

The Kentucky Department of Fish and Wildlife Resources supported the Program and recognized the need for such surveys to improve the management of migratory birds. Their only concern involved the ability to charge and collect monies for management of migratory birds other than waterfowl.

The Wildlife Division, Michigan Department of Natural Resources, reported that Michigan is replacing the manual hunting and fishing license system with a computerized system using driver's license information. The license would be printed at the time of sale by the vendor and all sales would be recorded into a central computer. They proposed that the Harvest Information Card be modified to print the necessary authorization as a separate item on the State hunting licenses. Answers to the harvest questions could be entered into the computer as part of the authorization process and would be used to identify hunter names and addresses that need to be sent to the Service in electronic form. The system avoids accountability problems, reduces the time necessary to obtain the names and addresses, and reduces State costs. They suggested that the Service assist State agencies in improving their licensing systems. If States had similar harvest inventories, the Service would not need to conduct national surveys.

The Division of Fish and Wildlife, Minnesota Department of Natural Resources, was committed to the Program and to helping develop it for proper implementation.

The Missouri Department of Conservation has a long history of support for the development and implementation of the Program through direct involvement in the International Association of Fish and Wildlife Agencies. The provision for State Agencies to require a small handling fee to cover administrative costs and compensate vendors is appealing to Missouri, but they reserve the option to merge the Harvest Information card with other permit types and establish fees accordingly. They suggested excluding crows from the Program until it is fully operational, primarily because season dates unduly complicate distribution and collection of materials from vendors. They also recommended exempting sandhill cranes and swans until full Program implementation, since existing permits provide names and addresses for surveys. Service cooperation in providing surveys to meet special management needs should be clarified. They did not fully agree that response rates would be increased by compensating vendors. They requested that the Harvest Information Card include birth-date and sale-date to aid in enforcement. It would be difficult to obtain vendor compliance with the requirement to return the Survey Card within four days after providing the Harvest Information Card to the hunter.

The North Carolina Wildlife Resources Commission opposed the Program because they are concerned with the impact the Program would have on the hunting public, although they recognize the need for more complete and accurate harvest-survey information. The hunters in the U.S. have repeatedly shown that they are willing to pay the cost to participate in their sport, but at some point the complexity of regulations and license requirements becomes an undue burden.

The Pennsylvania Game Commission expressed total support for the Program. While they are concerned about the impact of additional costs and requirements for those who wish to hunt these species, our first priority must be the wildlife resource. In order to develop an adequate database on migratory bird harvests in support of management actions and migratory bird seasons and bag limits, a sound method must be developed and implemented that would provide reliable samples of hunting pressure, activity, and harvest. They believe the proposed Program would accomplish exactly that.

The Rhode Island Division of Fish and Wildlife, Department of Environmental Management, strongly supported the Program.

The South Dakota Department of Game, Fish, and Parks pledged complete support of the efforts to establish the Program. It is a response to the need for more complete and better quality migratory bird harvest data and they believe the Program will meet the demands of management of the internationally important migratory bird resource.

The Tennessee Wildlife Resources Agency strongly supported the concept of the Program, as it appears to be the only way to significantly improve information on population trends, harvest, and hunters of "webless" migratory bird species.

The Division of Wildlife Resources, Utah State Department of natural Resources opposed the Program because they believed that a national survey which duplicates existing State surveys is inefficient and unnecessary, although better information on migratory bird harvest is needed. They thought that States with pro-active, long-standing harvest surveys and established trends in harvest statistics should not be penalized by requiring a new and different survey. They estimated that the additional cost and hassle for hunters would result in an estimated 10 percent reduction in hunters, license revenues, money for management of doves, and, most importantly, the continued deterioration in juvenile hunter numbers. As hunters are bombarded by more questionnaires, Utah felt that there is a marked tendency for them to ignore or even become irritated by the constant requests for more information. They

thought that skewed samples and distorted estimates would result from hunters obtaining Harvest Information Cards in neighboring States where the fee is lower. State administration, distribution, and accounting for the Harvest Information Cards would be cumbersome and time-consuming. None of the Western Management Unit Technical Committee concerns of 1990 are met by the proposal, and there is not widespread State Agency support. Utah suggested that a better solution is that the Service require States that hunt migratory wildlife to provide consistent survey results according to uniform methodology by the date needed. The Service could also require lists of migratory bird hunters' names and addresses. They believed that if vendors are required to mail Survey Cards within 4 days, they would simply choose not to participate. They recommended that the final design of the Program and survey be approved by each State representative on migratory bird technical committees before implementation.

The Washington Department of Wildlife supported the Program because they believed it would address current deficiencies in harvest data for migratory birds, particularly for doves and band-tailed pigeons.

The Unified Sportsmen of Pennsylvania endorsed the Program if it would achieve a useful purpose. However, if most people do not cooperate, it would be a waste of everyone's effort. They strongly opposed restrictions on crow and grackle hunting and their inclusion in the Program because these birds cause damage to crops and communities and because crow hunting encourages youth to take up the hunting sports.

The South Carolina Waterfowl Association strongly supported the Program. They suggested that the Service keep an updated list of names and addresses of all migratory bird hunters and make the list available to conservation organizations working to enhance our migratory bird populations.

Brian Collins, Statistician, Canadian Wildlife Service, commented that December is too early to distribute cards. Canada retains responding hunters in their survey for two years to increase the efficiency of reaching cooperating hunters. He felt that there was too much stratification and that vendors might not comply with the requirement to promptly return cards. The parts survey could be biased by selecting only hunters who bagged more than 10 birds in the previous season.

Thomas Whittendale, Jr., Wildlife Biologist, Delaware Division of Fish and Wildlife, expressed concern that another "license" would be unpopular and suggested that we combine the Migratory Bird Harvest Information Program with the duck stamp program. He thought that junior and senior hunters should be issued free Harvest Information Cards. The strata are too small in some situations.

Bill Anderson, Biologist, Illinois Department of Conservation, suggested that duck-stamp holders not be charged an additional fee. The Harvest Information Card could be combined with the Federal Duck Stamp for waterfowl hunters and also be available separately for other hunters. Vendor cooperation is a major concern. First-year hunters should not be eliminated from the sample. He felt that the cost of the Harvest Information Card should be standardized nationwide at $2.00, and that it is important to continue estimating crippling losses. It should be clear that all migratory bird hunters would be required to obtain a Harvest Information Card, including those who do not need a State license.

Roger E. Lake, Assistant Research Supervisor, Minnesota Section of Wildlife, suggested that it would be important to concentrate on obtaining vendor cooperation in promptly returning the cards and on designing an evaluation of their compliance. An information and education effort should be provided for the vendors. Incentives for vendor promptness would be helpful. If the Harvest Information Card is valid in all States and only the first Survey Card is used, a sample for State surveys would exclude hunters who first hunt migratory birds in another State. He thought that the survey design must accommodate the fact that the percentage of repeat hunters varies greatly among species.

Michael Riggs, Senior Wildlife Biometrician, Minnesota Department of Natural Resources, suggested that it would be helpful to develop an annotated flow chart of the process. Some form of monetary compensation to license vendors would be essential if noncompliance is to be minimized. The compensation and penalties for noncompliance should be specifically stated. He asked how the strata sampling fractions would be determined. He thought that hunters who purchase licenses far in advance of the season are more likely to forget about keeping records of their hunting. The Survey Card does not allow the separation of those who hunted unsuccessfully from those who did not hunt. The Survey Card should have a space for date of sale in order that vendor promptness can be measured.

Steven L. Sheriff, Wildlife Biometrician, Missouri Department of Conservation, recommended that vendors not be required to distribute hunting record forms because previous attempts have not been successful. However, all hunters should be asked to keep records because memory bias could be a problem. Dove hunters might complete most of their hunting before they receive the hunting record forms which would be three weeks after they receive the Harvest Information Card. There should be a separate stratum for those who are obtaining cards for others and cannot answer some or all of the questions. Telephone numbers should be solicited from hunters as an optional item to facilitate the telephone follow-up of nonrespondents. Cover letters should indicate that other hunters are being asked to record information on other species. The Harvest Information Cards should include the birth date and sale date for enforcement purposes. The Survey card should include sale date check on vendor promptness. Cards should be bound in books of 20 or 25 cards for ease in handling. To facilitate replacements of lost cards, he suggested adding a third part to the card for the vendor with the hunter's name, birth date and card serial number. The State name should appear on the Harvest Information Card and the serial number should identify the State. The cost should be printed on the cards. Harvest Information Cards should be valid from date of distribution until the expiration date. For States with calendar year licenses, Harvest Information Cards distributed in January would be valid for two survey years, introducing duplication problems. Vendors should be provided with instruction sheets.

J. Edward Kautz, Senior Wildlife Biologist, New York State Department of Environmental Conservation, noted that the proposed design does not address prestige bias. He felt that the cost of the Harvest Information Cards should be standardized among States. If they are free, Harvest Information Cards might be obtained by those who do not plan to hunt migratory birds. He thought that the Survey Card should request the hunter's telephone number to facilitate the telephone follow-up, and that the Harvest Information Card should include space for the Federal Duck Stamp.

Brad Bales, Staff Biologist, Oregon Department of Fish and Wildlife, indicated that the Department was supportive of the general concepts of the survey.

Kenneth L. Hess, Director, Bureau of Administrative Services, Pennsylvania

Game Commission, suggested that there should be an explanatory preamble on the card highlighting what species are covered and indicating that the Harvest Information Card does not replace either the Federal or any State duck stamp. Beginning dates should be explicitly referenced. The Harvest Information and Survey Cards should be identified as such and have the year printed on them. The Harvest Information Card should include birth date. It is important to distinguish between hunters and collectors. Vendors should mail Survey Cards daily.

Fred E. Hartman, Supervisor, Waterfowl and Migratory Game Bird Section, Pennsylvania Game Commission, was concerned that vendors might create a bias via distribution methods and stressed the need to keep procedures simple. He suggested that the Harvest Information Card be called a permit to let a hunter know that it is a legal requirement. He suggested asking hunters to record hunting zone on their hunting records. Junior hunters must be included in the Program. He believed that hunters must have records before the hunting season to avoid memory bias.

Kelly McPhillips, Wildlife Biologist, South Dakota Resource Analysis Section-Surveys, suggested minimizing vendor responsibilities because of the problem of obtaining cooperation. Vendors should not be asked to distribute hunting records to a systematic sample of hunters. Cards should be issued in continuous, sequentially-numbered books for handling convenience. South Dakota plans to combine the Harvest Information Card with the State hunting license and not charge an additional fee. An image of the card would be printed on the back of the license. Gallinules and rails should not be listed on South Dakota cards because these species do not occur in the State. He thinks it is important to monitor the harvest of crows and blackbirds. The use of hunting records is important when collecting detailed information, such as hunt date throughout a several-month season. A new sample of hunters should be selected each year. Monitoring vendor compliance is going to be a large and complicated task.

Steven E. Anderson, Middletown, CA, stated that the Program should not be used to reduce hunting opportunities on Federal refuges.

Lyman L. McDonald, President, Western EcoSystems Technology, Inc., Littleton, CO, expressed concern about Alaskan natives' subsistence hunting, including spring hunting and egg-gathering. He suggested that capture-recapture techniques would be better for estimating subsistence harvest. It is very important to include the certified letter and telephone follow-up as part of the survey. He thought that the importance of the previous year's hunting success should be emphasized using bold, red print, and that letters should be personally signed by a biologist for the Chief. He strongly recommended Dillman's Total Design Method.

Vernon L. Wright, Louisiana State University, recognized the need for a better survey of harvest. He believed that an index is adequate, and that a defendable harvest estimate is not needed, and that there would be a problem requiring the Harvest Information Card for junior, senior and other groups of hunters. With an index, these groups could be omitted as long as the harvest is consistent among groups. He thought that names of migratory bird hunters would be of limited use to States because resident game hunters are not included. Limiting the Parts Survey to hunters bagging at least 10 birds would bias the survey. Some strata should be pooled. There would be a problem with some vendors not returning the Survey cards until they close their books on July 1.

John M. Anderson, Vice President (Ret.), National Audubon Society, Abbeville, LA, strongly endorsed the establishment of the program, and believed that it is long overdue.

K. H. Pollock, Professor of Statistics, North Carolina State University, stated that it is a very good survey design and the only drawback is that the frame may be incomplete if there is a lack of vendor cooperation.

Public Comment Invited

The Service intends that adopted final rules be as responsive as possible to all concerned interests and therefore desires to obtain for consideration the comments and suggestions of the public, other concerned governmental agencies, and private interests on these proposals. Such comments, and any additional information received, might lead to final regulations that differ from these proposals.

The Service recognizes that it may be difficult for some States to fully comply with this rule. Therefore, the Service seeks comments regarding methods to provide technical assistance to the States in developing the capability to comply with these requirements.

Special circumstances are involved in the establishment of these regulations which limit the amount of time that the Service can allow for public comment. Specifically, the need to establish a final rule at a point early enough in the year to allow for printing and distribution of the forms compresses the time in which the rulemaking process must operate. Therefore, the Service believes that to allow comment periods past the specified dates is contrary to the public interest.

Comment Procedures

It is the policy of the Department of the Interior, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may participate by submitting written comments to (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Office of Migratory Bird Management, 10800 Laurel-Bowie Road, Laurel, Maryland 20708–3600.

Comments received will be available for public inspection during normal business hours in Building 158, 10800 Laurel-Bowie Road (Gate 4, Patuxent Wildlife Research Center), Laurel, Maryland. All relevant comments received during the comment period will be considered. The Service will attempt to acknowledge the comments received, but substantive response to individual comments might not be provided.

NEPA Consideration

The establishment of this Harvest Information Program and options are being considered in the draft "Environmental Assessment: Migratory Bird Harvest Information Program." The public is invited to comment on the draft assessment. Copies of this draft document are available from the Service at the address indicated under the caption **ADDRESSES.**

Regulatory Flexibility Act, Executive Order 12291, and the Paperwork Reduction Act

A Determination of Effects, approved by the Assistant Secretary for Fish and Wildlife and Parks on June 14, 1991, concluded that the establishment of a Migratory Bird Harvest Information Program was not a "major" rule and, as such, was not subject to Regulatory Analysis under Executive Order 12291. It was also concluded that the rule would not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act 5 U.S.C. 601 *et seq.*

This proposed rule would eventually affect about 5 million migratory game bird hunters when it is fully implemented. It would require all migratory game bird hunters to supply their names and addresses in order that they can be sampled for a voluntary national harvest survey. All migratory

game bird hunters would be required to have evidence of providing their name and address to their State wildlife agency in their possession while hunting migratory birds.

The State wildlife agencies might require a small handling fee to compensate their hunting-license vendors and to cover their administrative costs. Many of the State hunting-license vendors are small entities, but this rule should not economically impact those vendors. Only migratory game bird hunters, individuals, would be required to provide this information, so this rule should not adversely affect small entities.

This rule contains information-collection requirements which require approval by the Office of Management and Budget (OMB). The information-collection requirements contained in this rule that are above and beyond those already contained in existing surveys and approved by OMB under #1018–0015 have been submitted to OMB for approval as required by 44 U.S.C. 3501 *et seq.* This Information Collection is required to obtain the benefit of hunting migratory game birds.

The public reporting burden for this collection of information is estimated to average 0.0182 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments regarding the burden estimate or any other aspect of these reporting requirements should be directed to the Service Information Collection Clearance Officer, MS–224 ARLSQ, Fish and Wildlife Service, Washington, DC 20240, or the Office of Management and Budget, Paperwork Reduction Project 1018–0015, Washington, DC 20503.

Executive Order (EO) 12612—Federalism

The regulations do not have significant federalism effects as provided in EO 12612. Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act of 1918. State harvest surveys presently cannot provide adequate national estimates of migratory game bird harvests for the following reasons: Some States do not now conduct annual harvest surveys or maintain accessible lists of hunter names and addresses. Comparable information is not available from all States because each State has different licensing laws regulating who must buy a hunting license and different survey procedures. Some hunters can legally hunt without an annual State license. Hunters might buy more than one type of license in a single State and might buy licenses from more than one State, introducting duplication problems. Currently, many State license lists are not available in time to permit distribution of hunter records early in the hunting season. Budget constraints often prevent States from conducting harvest surveys during certain years or could cause some States to eliminate them completely.

These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State Governments, or intrude on State policy or administration. Therefore, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. In fact, the Service would cooperate with States in providing surveys to meet special management needs, and increased cooperation between Federal and State agencies would reduce duplication of survey efforts.

Executive Order 12360—Taking of Individual Property Rights

Executive Order 12360 discussed guidelines for the taking of individual property rights. These rules, authorized by the Migratory Bird Treaty Act, do not affect any constitutionally-protected property rights. These rules would not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property.

Authorship

The primary author of this proposed rule is Paul H. Geissler, Chief, Waterfowl Harvest Surveys Section, working under the direction of Thomas J. Dwyer, Chief, Office of Migratory Bird Management.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Proposed Regulation Promulgation

Accordingly, it is hereby proposed to amend part 20, subpart C of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 20—[Amended]

1. The authority citation for part 20 is revised to read as follows:

Authority: The Migratory Bird Treaty Act of July 3, 1918, as amended, (16 U.S.C. 703–712) and the Fish and Wildlife Service Act of August 8, 1956, as amended, (16 U.S.C. 742 a-d and e-j).

2. It is proposed that § 20.20 be added to read as follows:

§ 20.20 Migratory Bird Harvest Information Program.

(a) Information collection requirements. [Reserved]

(b) All persons hunting migratory game birds in the listed States after July 1, 1992, shall have on their person valid evidence of current participation in the Migratory Bird Harvest Information Program. To obtain this evidence, a person shall be required to provide his or her name, address, and date of birth. States to be included in the above requirement in 1992 are California, Missouri, and South Dakota.

Editorial Note: This document was received by the Office of the Federal Register on June 5, 1992.

Dated: January 27, 1992.

James F. Spagnole,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 92–13573 Filed 6–9–92; 8:45 am]

BILLING CODE 4310–55–M

federal register

Wednesday
June 10, 1992

Part V

Environmental Protection Agency

40 CFR Part 141

National Primary Drinking Water Regulations, Analytical Techniques; Coli Form Bacteria; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 141

[WH-FRL-4108-6]

RIN: 2040-AB84

National Primary Drinking Water Regulations: Analytical Techniques; Coliform Bacteria

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On June 19, 1989, EPA promulgated revised National Primary Drinking Water Regulations (NPDWRs) for total coliforms (54 FR 27544, June 29, 1989) pursuant to section 1412 of the Safe Drinking Water Act (SDWA). In that notice, EPA approved the use of the Minimal Medium ONPG-MUG (MMO-MUG) test for total coliform analysis for compliance with the maximum contaminant level (MCL) for total coliforms under the Safe Drinking Water Act (SDWA). (ONPG is ortho-nitrophenyl-β-D-galactopyranoside; MUG is 4-methylumbelliferyl-β-D-glucuronide.) Today's action amends 40 CFR 141.21(f) by also approving the MMO-MUG test for the detection of *Escherichia coli* (*E. coli*).

EFFECTIVE DATE: July 10, 1992.

ADDRESSES: The public comments and supporting documents cited in the reference section of this notice, the proposed notice (55 FR 22752, dated June 1, 1990), the notice of availability (56 FR 49153, dated September 27, 1991), and associated material are available for review at EPA's Drinking Water docket, 401 M Street SW., Washington, DC 20460. For access to the docket materials, call (202) 260-3027 on Monday through Friday, excluding Federal holidays, between 9 a.m. and 3:30 p.m. Eastern Time for an appointment.

FOR FURTHER INFORMATION CONTACT: The Safe Drinking Water Hotline, telephone (800) 426-4791. The Safe Drinking Water Hotline is open Monday through Friday, excluding Federal holidays, from 8:30 a.m. to 5 p.m. Eastern Time. For technical questions, contact Paul S. Berger, Ph.D., Office of Ground Water and Drinking Water (WH-550D), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, telephone (202) 260-3039.

SUPPLEMENTARY INFORMATION: .

Table of Contents

I. Statutory Authority

The SDWA requires EPA to promulgate NPDWRs which include MCLs or treatment techniques (section 1412). NPDWRs also contain "criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels; including quality control and testing procedures to insure compliance with such levels * * *" (section 1401(1)(D)). In addition, section 1445(a) of the SDWA authorizes the Administrator to require monitoring to assist in determining whether persons are in compliance with the requirements of the SDWA. EPA's promulgation of analytical techniques is authorized under these sections of the SDWA. EPA has promulgated analytical techniques for all currently regulated drinking water contaminants; persons must use one of the approved analytical techniques for determining compliance with the MCLs (see 40 CFR 141.21-30). Today's action promulgates an additional analytical method for the detection of *E. coli*.

II. Regulatory Background

On June 19, 1989, EPA promulgated revised regulations for total coliforms (54 FR 27544, June 29, 1989), with an effective date of December 31, 1990. Paragraph 141.21(e) of those regulations requires public water systems to test all total coliform-positive cultures for the presence of either fecal coliforms or *E. coli*. Fecal coliforms and *E. coli* are both indicators of fresh sewage. The regulations specified the analytical method to test for the presence of fecal coliforms (paragraph 141.21(f)(5)), but not for the presence of *E. coli*. On June 1, 1990, EPA proposed three analytical methods for the detection of *E. coli*. On January 8, 1991, EPA promulgated two of these methods, but deferred approval of the third one, the MMO-MUG test. On September 27, 1991, the Agency published a Notice of Availability (56 FR 49153) to provide notice and an opportunity for public comment on two recently completed studies with respect to the MMO-MUG test addressing concerns regarding the ability of the method to detect environmentally stressed *E. coli*. The Notice of Availability indicated that EPA intended to approve the MMO-MUG test based on the results of these studies unless data were received to the contrary. Today's action promulgates the MMO-MUG test for *E. coli* detection.

III. Discussion of Final Rule

A. Public Comments

EPA received 29 public comments during the comment period, and three comments after the close of the comment period. Of the 32 commenters, 28 supported approval of the MMO-MUG test for *E. coli* detection, while four raised concerns. The most important of the concerns raised are addressed below. All public comments are addressed in the comment-response document for this rule, which is available in EPA's Drinking Water docket for *E. coli*.

Source of *E. coli*

Two commenters expressed concern that sewage samples were used as the cource of *E. coli* in the Strandridge et al. study (one of the two recent studies cited in the Notice of Availability), as opposed to drinking water or ambient water samples. One of these commenters maintained that previous studies on the MMO-MUG test using naturally contaminated samples showed that the false-negative rate was high, implying that EPA should disapprove the MMO-MUG test.

EPA recognizes that *E. coli* in ambient water and drinking water probably have been subjected to greater environmental stress than those in sewage samples. The Agency believes, however, that sewage sources are more appropriate for determining the *E. coli* false-negative rate than other sources, primarily because (1) sewage sources have a greater diversity of *E. coli* strains than does ambient water, (2) *E. coli* density is greater in sewage than in other sources, thereby facilitating a chlorination study, and (3) drinking waters, especially if disinfected, rarely contain *E. coli*, which would make this source difficult to use as an *E. coli* source (SAB, 1991; Geldreich, 1992). Moreover, *E. coli* in the distribution system may be the result of fresh sewage directly contaminating the water supply via a cross connection or a line break, in which case sewage is a closer approximation than ambient water for these organisms.

In order to obtain low densities of stressed *E. coli* from sewage, recent investigators (Standridge et al., 1991; Covert et al., 1991; Pipes, 1991) first removed the heavier sewage particles, and then chlorinated and diluted the

sewage sample. EPA believes that *E. coli* in samples treated in this fashion adequately approximates the characteristics of those organisms in drinking water. The EPA's Science Advisory Board (SAB) reviewed the protocols employed in the investigations upon which EPA relied, and agreed that raw sewage treated in this manner was the most appropriate *E. coli* source for evaluating low densities of stressed *E. coli* (SAB, 1991).

Using these treated sewage samples, the investigators cited above found that the MMO–MUG test was sensitive to low densities of *E. coli*. Pipes, for example, found the false-negative rate to be about 9%. EPA believes this false-negative rate is satisfactory when compared to other tests. The Agency recognizes that some question still exists with regard to the most appropriate *E. coli* source, but believes this issue cannot be completely resolved without widespread comparison data using drinking water samples over a long period of time (to accumulate sufficient *E. coli* data). The Agency will continue to monitor available data periodically.

False-Positive Rate

One commenter suggested that Standridge et al. should have identified the bacteria in MMO–MUG-positive tests to ensure they were actually *E. coli*, and not false-positive. EPA disagrees. The Agency's disagreement is premised on technical literature that suggests few false-positives are associated with MUG-type tests. This was discussed in the preamble to the notices of June 1, 1990, and January 8, 1991, and in the Comment/Response document to the final rule of January 8. Although EPA is not certain why some samples were MUG-positive in MMO–MUG, but MUG-negative in EC+MUG, the Agency believes the false-positive rate for the *E. coli* portion of the MMO–MUG test is low. For this reason, this issue was not addressed in the studies by Standridge et al. and Covert et al. The Agency position is supported by Pipes (1991), who found that all MUG-positive cultures from the MMO–MUG test (total of 88) were also MUG-positive in EC Medium + Mug. Dr. Pipes used a test protocol developed by EPA and reviewed and approved by EPA's Science Advisory Board. For these reasons, EPA does not believe that the absence of false-positive data diminishes the Agency's reliance on the conclusions of Standridge et al. (1991).

Initial *E. Coli* Density

The test protocol in Standridge et al. (1991) called for use of the mTEC test to enumerate *E. coli* to determine the proper dilution for the initial test conditions. Standridge et al. found in the course of the investigation, however, that mTEC often underestimated *E. coli* density. For this reason, in order to provide more confidence that the initial *E. coli* densities were no more than five/tube, these investigators determined a Most Probable Number (MPN) from the MMO–MUG test tubes. One commenter objected to this procedure because it would have introduced a bias into the density calculation, because the variable being determined is the effectiveness of the MMO–MUG test itself. Thus, the commenter questioned whether the *E. coli* density used in the Standridge et al. study was within the range of interest (1–5 cells/100 ml).

While EPA shares the commenter's concern, the Agency notes that the MMO–MUG MPN test was only used to estimate the dilution of the chlorinated sample necessary to achieve an initial challenge dose in the range of interest. In spite of the difficulty encountered by Standridge et al. in estimating *E. coli* density by mTEC, EPA believes the initial *E. coli* density used in the analysis was generally within the range of interest. The Agency conclusion is based on two factors. First, *E. coli* densities were 5.1/100 ml or fewer in all 19 samples analyzed by EC+MUG, the Agency standard. Second, fecal coliform densities, as measured by gas production in EC+MUG, were 5.1/100 ml or fewer in 13 of 19 samples. The fecal coliform test used theoretically represents an unbiased upper boundary of *E. coli* densities, because gas production is not limited to *E. coli* strains. With the MMO–MUG test, *E. coli* densities were 5.1/100 ml of fewer in 11 of 19 samples analyzed. Thus, slightly higher densities of *E. coli* were found by the MMO–MUG test compared to the fecal coliform test, possibly as a result of statistical variation. By using the MMO–MUG test results to estimate initial *E. coli* densities, and thereby to determine needed sample dilutions, Standridge et al. used the most conservative data (i.e., greatest dilution factor) of the four tests available.

Wattage of Ultraviolet Lamp

One commenter noted that Standridge et al. had used both a 4-watt and a 6-watt ultraviolet lamp for detecting *E. coli*. The commenter requested information on whether any difference was observed.

During the public comment period, Standridge et al. provided EPA with a draft article on their comparison study that has been submitted for publication. This draft article, which the Agency has placed in its *E. coli* docket, provides additional detail on their investigation. The article states that no difference was observed between the 4-watt and 6-watt lamps with the EC+MUG test. However, the 6-watt lamp detected slightly more MUG-positive reactions (i.e., *E. coli* present) than the 4-watt lamp with the MMO–MUG test (331 vs. 321). The data indicate that difference is not statistically significant. Nevertheless, in the interest of public health, the Agency recommends the use of the 6-watt lamp.

MMO–MUG Medium Formulation

One commenter contended that the manufacturer has changed the formulation of the MMO–MUG medium by replacing the inorganic buffer with an organic buffer. The commenter argues that a change in formulation should necessarily prompt a new testing program before being approved by EPA. Apparently, the commenter is referring to the fact that the Agency approved the MMO–MUG test for total coliforms in June 1989 on the basis of test data using the earlier formulation, and that the reformulation invalidates that approval.

In investigating this comment, EPA learned that the commenter is correct that the manufacturer replaced the inorganic buffer with an organic buffer (hepes buffer) in April 1990. The Agency maintains, however, that this change is minor and should not reduce the effectiveness of the Colilert test. The rationale for this belief is based on three factors. First, the only change was in the buffer. Second, data show that hepes buffer is inert to *E. coli* (Ferguson et al., 1980). Finally, several enzymes produced by *E. coli*, though not associated with the MMO–MUG test, exhibit higher activity in a prepared test solution containing hepes buffer than in a solution containing phosphate buffer (Hulsmann et al., 1990; Good et al., 1966). Higher activity of these enzymes suggests that the hepes buffer may enhance activity (or be less inhibitory) for the two enzymes of interest in the MMO–MUG test.

The Agency's belief that the buffer change does not adversely impair MMO–MUG performance is also confirmed by several field studies. In one study of seven marine water samples, the MMO–MUG test formulation with hepes buffer (the new formulation) recovered many more *E. coli* than the old MMO–MUG formulation (average Most Probable Number was 24 vs. <2) (Ellgas et el., 1989). Although this data set is extremely limited, the Ellgas et al. study suggests that the new formulation

recovers *E. coli* more frequently than the old. In another comparison study (Layton, 1991), 143 samples were split and tested using both MMO–MUG formulations. Samples consisted of raw water and water from several different distribution systems, some of which were spiked with raw water or with laboratory strains. Of the 143 samples, 93 were total coliform-positive for both, 44 were total coliform-negative for both, one was total coliform-positive for the old formulation and not the new, and five were total coliform-positive for the new formulation and not the old. For the same sample set, 50 were *E. coli*-positive for both, 78 were *E. coli*-negative for both, four were *E. coli*-positive for the old and not the new, and 11 were *E. coli*-positive for the new and not the old. The results suggest that the new formulation is at least as good as the old one.

After learning that the MMO–MUG formulation had been changed, EPA gathered additional field date from water systems to confirm that the new MMO–MUG formulation was at least as good as the old formulation for total coliform detection. Specifically, the Agency reviewed data collected from more than 30 systems or States comparing the new formulation with one of the other three EPA-approved total coliform methods. Most of the total coliform data represented drinking water sources, although some were raw water sources. EPA evaluated only data sets in which at least one sample was total coliform-positive by at least one test (1315 such samples). By using McNemar's test (two-tailed χ^2 test with one degree of freedom and alpha of 0.05) for paired dichotomous data, EPA finds that the MMO–MUG test recovers coliforms at least as frequently as the Multiple Tube Fermentation Test, and exhibits greater sensitivity than the Membrane Filter Test and the Presence-Absence Coliform Test (USEPA, 1992). The Agency has placed this evaluation in the *E. coli* docket.

As a result of the above information and data, EPA is providing notice in today's rule that the MMO–MUG test with hepes buffer is an acceptable minor revision for the detection of total coliforms in drinking water. Ingredients per liter for the new formulation are listed below:

Ingredients (anhydrous)	Concentration
Ammonium sulfate	5 g.
Manganese sulfate	0.5 mg.
Zinc sulfate	0.5 mg.
Magnesium sulfate	100 mg.
Sodium chloride	10 g.
Calcium chloride	50 mg.
Sodium sulfite	40 mg.
Amphotericin B	1 mg.
Orthonitrophenyl-β-D-galactopyranoside (ONPG).	500 mg.
4-methylumbelliferyl-β-D-glucuronide (MUG).	75 mg.
Solanium [1]	500 mg.
Hepes buffer:	
Sodium salt	5.3 g.
Organic acid [2]	6.9 g.

[1] Solarium is a mixture of plant extracts used as a dispersant.

[2] N-2-Hydroxyethylpiperazine-N'-2-ethane sulphonic acid.

B. EPA's Conclusion of E. Coli Detection

After reviewing the data and public comments, EPA believes that the MMO–MUG test is satisfactory for *E. coli* detection, and is therefore approving the use of this test under the Total Coliform Rule. The Agency also believes that the benefit of approving use of a simple, rapid *E. coli* method outweighs any residual uncertainty concerning this test. However, since the use of the method for *E. coli* detection, and the modified formulation, is new and consequently has not been tested with the entire range of drinking water available in the United States, EPA encourages laboratories to perform parallel testing between the MMO–MUG test and other EPA-approved procedures for detecting *E. coli* for at least several months to assess the effectiveness of the MMO–MUG test for the specific water type being analyzed. To facilitate collection and evaluation of comparative data, EPA strongly recommends that laboratories identify which test(s) they use on the data form for each sample analyzed.

The test being promulgated today is based on the ability of *E. coli* to produce the enzyme beta-glucuronidase, which hydrolyzes 4-methylumbelliferyl-beta-D-glucuronide (MUG) contained in the test medium. This hydrolysis forms 4-methylumbelliferone, which fluoresces when exposed to ultraviolet light (366 nm). Few noncoliforms, or coliforms other than *E. coli*, produce the enzyme beta-glucuronidase. Thus, fluorescence should be a differential indicator for the presence of *E. coli* in a water sample.

IV. Regulation Assessment Requirements

A. Executive Order 12291

Executive Order 12291 requires EPA to judge whether a regulation is "major" and, if so, to prepare a regulatory impact analysis. A rule is considered major if it has an economic impact of $100 million or more, causes a significant increase in cost or prices, or any of the other adverse effects described in the Executive Order. Because the rule merely makes an additional analytical method available for use in complying with the regulation for total coliforms, EPA has determined that this action is not a major rule within the meaning of the Executive Order. Water systems/laboratories may use the new method or continue using previously-approved methods. Therefore, there will not be any adverse economic impacts.

This notice was submitted to the Office of Management and Budget for its review under the Executive Order.

B. Regulatory Flexibility Analysis

The Regulatory Flexibility Act requires EPA to explicitly consider the effect of proposed regulations on small entities. If there is a significant effect on a substantial number of small systems, means should be sought to minimize the effects. The Small Business Administration defines a small water utility as one which serves fewer than 3,300 people. Under this definition, this rule would affect about 200,000 small systems.

This final rule is consistent with the objectives of the Regulatory Flexibility Act because it will not have a significant economic impact on small entities. The rule provides laboratories with a third alternative for testing a total coliform-positive culture for *E. coli*. Because use of this method is optional, and because EPA is not promulgating any new requirement, the Agency believes that the impact of this notice does not have a significant effect on a substantial number of small entities.

C. Paperwork Reduction Act

This rule contains no information collection requirements and consequently is not covered by the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

D. Science Advisory Board, National Drinking Water Advisory Council, and Secretary of Health and Human Services

In accordance with section 1412 (d) and (e) of the Safe Drinking Water Act, the Agency consulted with the Science Advisory Board, National Drinking Water Advisory Council, and the Secretary of Health and Human Services and took their comments into account in developing this rule.

List of Subjects in 40 CFR Parts 141

Administrative practice and procedure, Analytical methods, Intergovernmental relations, Microorganisms, National Primary

Drinking Water Regulations, Total coliforms, Water supply.

Dated: May 29, 1992.

William K. Reilly,

Administrator.

V. References

Covert, T., E. Rice, S. Johnson, D. Berman, C. Johnson, P. Mason. 1991. Evaluation of the Autoanalysis Colilert Test, Coliquik Coliform Test and EC Medium with MUG for detection of *Escherichia coli* in water. (Submitted for publication).

Ellgas, W., M. Kenney, K. Osborn, A. Greenberg. 1989. Evaluation of Autoanalysis Colilert in wastewater. Proceedings of the Water Pollution Control Federation Specialty Conference on Microbial Aspects of Surface Water Quality. May 30, 1989, Chicago.

Ferguson, W., K. Braunschweiger, W. Braunschweiger, J. Smith, J. McCormick, C. Wasmann, N. Jarvis, D. Bell, and N. Good. 1980. Hydrogen ion buffers for biological research. Analytical Biochemistry 104:300–310.

Geldreich, E. 1992. Compliance concerns with the new coliform regulation. *In*: Proceedings, Water Quality Technology Conference (Part II), Orlando, Florida. American Water Works Association, Denver.

Good, N., G. Winget, W. Winter, T. Connolly, S. Izawa, R. Singh. 1966. Hydrogen ion buffers for biological research 5(2):467–477.

Hülsmann, K., A. Bergerat-Coulaud, and U. Hahn. 1990. *E. coli* Dam activity in Hepes buffer asks for a new unit definition. Nucleic Acids Research 18(23):7189.

Layton, D. 1991. Letter from Environetics to Dr. Paul Berger, U.S. Environmental Protection Agency. 12/4/91.

Pipes, W. 1991. The transferability of *Escherichia coli* from MMO–MUG media for detection in drinking water samples. (Unpublished manuscript submitted to EPA's Office of Ground Water and Drinking Water, Washington, DC)

SAB, 1991. Science Advisory Board. Microbiological testing of drinking water. EPA–SAB–DWC–91–014. U.S. Environmental Protection Agency.

Standridge, J., S. McCarty, and R. Dergrigorian. 1991. Comparison of the ability of the Autoanalysis Colilert ONPG–MUG test system to the Standard Methods lauryl tryptose broth—EC–MUG system to detect chlorine stressed *Escherichia coli*. (Submitted for publication).

USEPA. 1992. Memorandum from P. Berger, Office of Ground Water and Drinking Water, U.S. Environmental Protection Agency, to *E. coli* Docket. 4/3/92. Statistical analysis of raw data comparing Colilert test with EPA-approved total coliform methods.

For the reasons set out in the preamble, part 141 of title 40 of the Code of Federal Regulations is amended as follows:

PART 141—NATIONAL PRIMARY DRINKING WATER REGULATIONS

1. The authority citation for part 141 continues to read as follows:

Authority: 42 U.S.C. 300f, 300g-1, 300g-2, 300g-3, 300g-4, 300g-5, 300g-6, 300j-4 and 300j-9.

2. Section 141.21 is amended by revising in paragraph (f)(3)(ii) the first word "Membrance" to read "Membrane", by adding a sentence to the end of (f)(3)(iv), by adding paragraph (f)(6)(iii), and by revising (f)(7) to read as follows:

§ 141.21 Coliform sampling.

* * * * *

(f) * * *

(3) * * *

(iv) * * * The MMO–MUG Test with hepes buffer in lieu of phosphate buffer is an acceptable minor revision.

* * * * *

(6) * * *

(iii) Minimal Medium ONPG–MUG (MMO–MUG) Test, as set forth in the article "National Field Evaluation of a Defined Substrate Method for the Simultaneous Detection of Total Coliforms and *Escherichia coli* from Drinking Water: Comparison with Presence-Absence Techniques" (Edberg et al.), Applied and Environmental Microbiology, Volume 55, pp. 1003–1008, April 1989. (Note: The Autoanalysis Colilert System is an MMO–MUG test). If the MMO–MUG test is total coliform-positive after a 24-hour incubation, test the medium for fluorescence with a 366-nm ultraviolet light (preferably with a 6-watt lamp) in the dark. If fluorescence is observed, the sample is *E. coli*-positive. If fluorescence is questionable (cannot be definitively read) after 24 hours incubation, incubate the culture for an additional four hours (but not to exceed 28 hours total), and again test the medium for fluorescence. The MMO–MUG Test with hepes buffer in lieu of phosphate buffer is the only approved formulation for the detection of *E. coli*.

(7) As an option to paragraph (f)(6)(iii) of this section, a system with a total coliform-positive, MUG-negative, MMO–MUG test may further analyze the culture for the presence of *E. coli* by transferring a 0.1 ml, 28-hour MMO–MUG culture to EC Medium + MUG with a pipet. The formulation and incubation conditions of EC Medium + MUG, and observation of the results are described in paragraph (f)(6)(i) of this section.

* * * * *

[FR Doc. 92–13381 Filed 6–9–92; 8:45 am]

BILLING CODE 6560–50–M

Reader Aids

Federal Register

Vol. 57, No. 112

Wednesday, June 10, 1992

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	202-523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-5237
Machine readable documents	523-3447

Code of Federal Regulations

Index, finding aids & general information	523-5227
Printing schedules	523-3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230

The United States Government Manual

General information	523-5230

Other Services

Data base and machine readable specifications	523-3447
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the hearing impaired	523-5229

FEDERAL REGISTER PAGES AND DATES, JUNE

23043-23134.....1
23135-23300.....2
23301-23522.....3
23523-23924.....4
23925-24178.....5
24179-24344.....8
24345-24538.....9
24539-24748.....10

CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
12324 (Revoked by EO 12807).....23133
12808 (See EO 12810).....23437
12807.....23133
12808.....23299
12809.....23925
12810.....23437
Proclamations:
4865 (See EO 12807).....23133
6443.....24179
Administrative Orders:
Memorandums:
February 10, 1992.....23435
Presidential Determinations:
92-29 of June 2, 1992.....24539

5 CFR

430.....23043
432.....23043
540.....23043
Proposed Rules:
890.....23126

7 CFR

703.....23908
925.....24351, 24352
932.....24353
947.....24541
998.....24354
Proposed Rules:
905.....24384
911.....24385
915.....24386
921.....24388
922.....24388
923.....24388
924.....24388
946.....24561
947.....24562
958.....24390
982.....24563
985.....24391
998.....24392
1209.....24720

9 CFR

91.....23046
93.....23048
94.....23927
317.....24542
381.....24542
Proposed Rules:
91.....23066
160.....23540
161.....23540
162.....23540

10 CFR

19.....23929
20.....23929
205.....23929
417.....23931
445.....23931
456.....23931
490.....23931
595.....23523
1001.....23929
Proposed Rules:
52.....24934
100.....23548

12 CFR

304.....23931
337.....23933
Proposed Rules:
611.....23348
615.....23348
627.....23348
700.....24395

14 CFR

21.....23523
29.....23523
39.....23049-23053, 23126, 23135, 23526-23530, 24356
71.....24357
95.....24358
97.....24181, 24182
121.....23922
125.....23922
127.....23922
129.....23922
135.....23922
139.....23126
Proposed Rules:
Ch. I.....23165
21.....23165
23.....23165
39.....23168, 23169, 23549-23553, 23966-23978, 24200, 24201, 24395, 24407
71.....23126, 23257, 24202, 24412, 24413
382.....23555

15 CFR

Proposed Rules:
Ch. IX.....23067
303.....24414

17 CFR

1.....23136
3.....23136
Proposed Rules:
240.....24415
270.....23980

18 CFR

1301.....23531

Proposed Rules:
33.....23171
35.....23171
290.....23171

19 CFR
4.....23944

20 CFR
404.....23054, 23155, 23945, 23946, 24186, 24308
416.....23054

21 CFR
3.....24544
176.....23947
178.....23950
558.....23058, 23953
573.....24187
807.....23059
1308.....23301
Proposed Rules:
146.....23555
163.....23989
334.....23174

23 CFR
Proposed Rules:
Ch. I.....23460

24 CFR
901.....23953
Proposed Rules:
203.....24424
204.....24424

25 CFR
700.....24363

26 CFR
1.....24187
Proposed Rules:
1.....23176, 23356, 24426
301.....23356

27 CFR
47.....24188
Proposed Rules:
9.....23559
24.....23357

28 CFR
541.....23260

29 CFR
1910.....23060, 24310, 24438, 24701
1915.....24438
1926.....24310, 24438

30 CFR
Proposed Rules:
202.....23068
935.....23176–23179
944.....23181

31 CFR
26.....24544
580.....23954

32 CFR
208.....24463
311.....24547
312.....24547
355.....23157
706.....23061, 24548

33 CFR
100.....23302, 23303, 23533, 23534, 23955
117.....24189, 24190
165.....23304, 23534
Proposed Rules:
100.....23458
110.....23458
117.....23363
165.....23364, 23458, 23561, 24203, 24204, 24444

34 CFR
425.....24084
426.....24084
431.....24084
432.....24084
433.....24084
434.....24084
435.....24084
436.....24084
437.....24084
438.....24084
441.....24084
460.....24084
461.....24084
462.....24084
463.....24084
464.....24084
471.....24084
472.....24084
473.....24084
474.....24084
475.....24084
476.....24084
477.....24084
489.....24084
490.....24084
491.....24084

36 CFR
1228.....24308

37 CFR
Proposed Rules:
1.....23257
2.....23257

38 CFR
4.....24363
21.....24366, 24367
Proposed Rules:
3.....24446
21.....24447

39 CFR
Proposed Rules:
111.....23072
3001.....24564

40 CFR
52.....24368, 24378, 24549
60.....24550
61.....23305
141.....24744
180.....24552, 24553
261.....23062
271.....23063
Proposed Rules:
52.....24447, 24455
86.....24457
180.....23366, 24565
185.....23366
260.....24004
261.....24004
262.....24004
264.....24004
268.....24004
721.....23182
763.....23183
799.....24568

41 CFR
Proposed Rules:
105.....23368
106.....23368
107.....23368

42 CFR
Proposed Rules:
412.....23618
413.....23618

43 CFR
Public Land Orders:
6929.....24191

44 CFR
64.....23159

46 CFR
221.....23470
383.....24191
401.....23955
Proposed Rules:
510.....23563, 24004
515.....24569
520.....23564
525.....24006
530.....24006
550.....23564, 23566
560.....24569, 24571
572.....24569, 24571
580.....23368, 23563, 23564, 23566
581.....24220
582.....23563

47 CFR
1.....23160, 23161
69.....24379
73.....23162, 24544
90.....24192
Proposed Rules:
Ch. I.....24574
1.....24006, 24205
2.....24006
21.....24006
69.....24379
73.....23188, 23567, 24577

48 CFR
552.....23163
710.....23320
752.....23320
2801.....24555
2803.....24555
2804.....24555
2805.....24555
2806.....24555
2807.....24555
2810.....24555
2813.....24555
2817.....24555
2833.....24555
2834.....24555
Proposed Rules:
21.....24720
2401.....24334
2402.....24334
2403.....24334
2405.....24334
2406.....24334
2409.....24334
2413.....24334
2414.....24334
2415.....24334
2416.....24334
2419.....24334
2425.....24334
2426.....24334
2428.....24334
2432.....24334
2433.....24334
2436.....24334
2437.....24334
2446.....24334
2452.....24334
9903.....23189
9905.....23189

49 CFR
544.....23535
571.....23958
1001.....24380
1332.....23538
Proposed Rules:
Ch. VI.....23460
172.....24432
391.....23370
571.....24008, 24009, 24207, 24212
1004.....23072
1023.....23372
1321.....23568

50 CFR
17.....24192
227.....23458
663.....23065
672.....23163, 23321–23346, 23965, 24381, 24559
675.....23321, 23347, 24381, 24559
Proposed Rules:
17.....24220–24222
20.....24736
611.....24222
625.....24012, 24577
651.....24013
653.....23199
663.....24589
675.....24014
678.....24222

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List June 9, 1992

Would you like to know...

if any changes have been made to the Code of Federal Regulations or what documents have been published in the Federal Register without reading the Federal Register every day? If so, you may wish to subscribe to the *LSA (List of CFR Sections Affected)*, the *Federal Register Index*, or both.

LSA • List of CFR Sections Affected

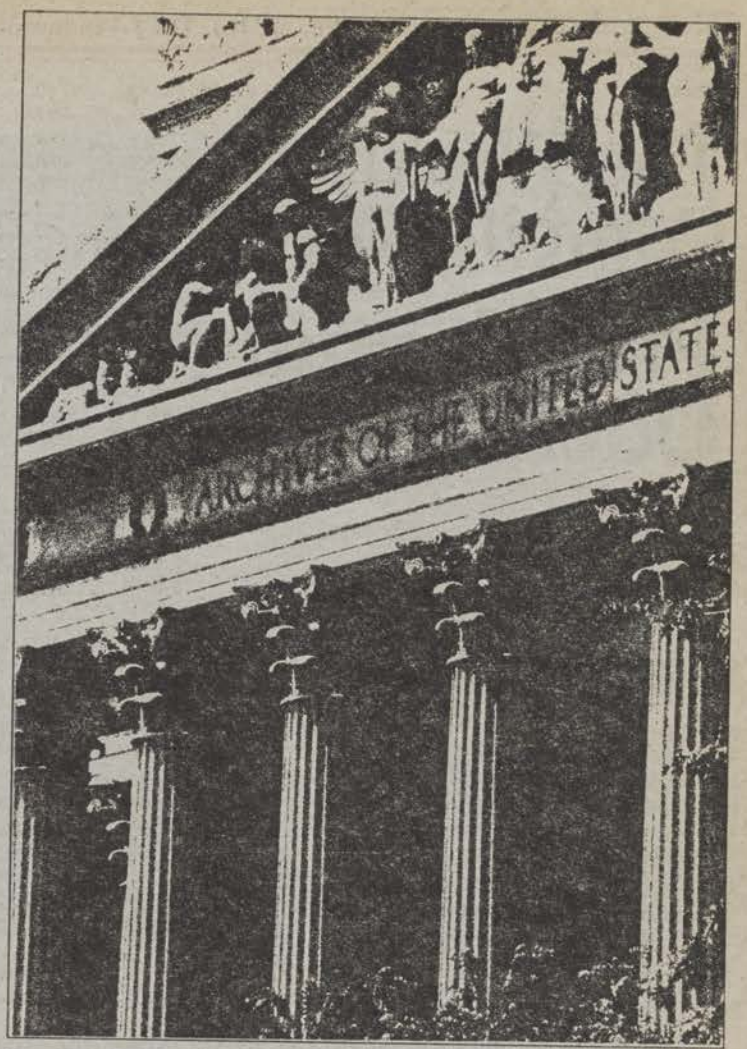
The LSA (List of CFR Sections Affected) is designed to lead users of the Code of Federal Regulations to amendatory actions published in the Federal Register. The LSA is issued monthly in cumulative form. Entries indicate the nature of the changes—such as revised, removed, or corrected.
$21.00 per year

Federal Register Index

The index, covering the contents of the daily Federal Register, is issued monthly in cumulative form. Entries are carried primarily under the names of the issuing agencies. Significant subjects are carried as cross-references.
$19.00 per year.

A finding aid is included in each publication which lists Federal Register page numbers with the date of publication in the Federal Register.

Note to FR Subscribers:
FR Indexes and the LSA (List of CFR Sections Affected) are mailed automatically to regular FR subscribers.



Superintendent of Documents Subscriptions Order Form

Order Processing Code:
*6483

Charge your order. It's easy! MasterCard VISA

Charge orders may be telephoned to the GPO order desk at (202) 783-3238 from 8:00 a.m. to 4:00 p.m. eastern time, Monday-Friday (except holidays).

☐ **YES,** please send me the following indicated subscriptions:

☐ LSA • List of CFR Sections Affected—one year as issued—$21.00 (LCS)

☐ Federal Register Index—one year as issued—$19.00 (FRSU)

1. The total cost of my order is $_____. All prices include regular domestic postage and handling and are subject to change. International customers please add 25%.

Please Type or Print

2. _____
(Company or personal name)

_____
(Additional address/attention line)

_____
(Street address)

_____
(City, State, ZIP Code)

(_____)
(Daytime phone including area code)

3. **Please choose method of payment:**

☐ Check payable to the Superintendent of Documents

☐ GPO Deposit Account ☐☐☐☐☐☐☐-☐

☐ VISA or MasterCard Account

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

_____
(Credit card expiration date)

Thank you for your order!

_____
(Signature)

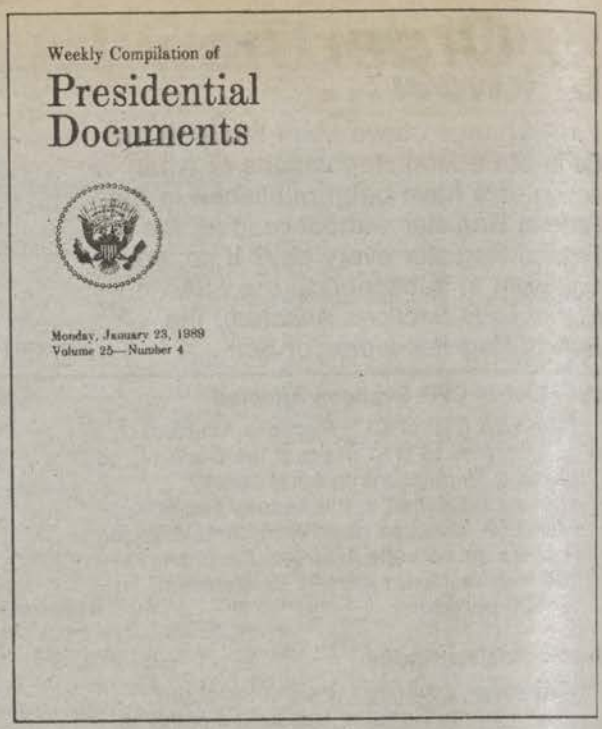
(REV. 10-1-88)

4. Mail To: Superintendent of Documents, Government Printing Office, Washington, DC 20402-9371

The authentic text behind the news . . .

The Weekly Compilation of **Presidential Documents**

Administration of George Bush



This unique service provides up-to-date information on Presidential policies and announcements. It contains the full text of the President's public speeches, statements, messages to Congress, news conferences, personnel appointments and nominations, and other Presidential materials released by the White House.

The Weekly Compilation carries a Monday dateline and covers materials released during the preceding week. Each issue contains an Index of Contents and a Cumulative Index to Prior Issues.

Separate indexes are published periodically. Other features include lists of acts approved by the President, nominations submitted to the Senate, a checklist of White House press releases, and a digest of other Presidential activities and White House announcements.

Published by the Office of the Federal Register, National Archives and Records Administration.

Superintendent of Documents Subscriptions Order Form

Order Processing Code:
***6466**

Charge your order. It's easy!

Charge orders may be telephoned to the GPO order desk at (202) 783-3238 from 8:00 a.m. to 4:00 p.m. eastern time, Monday-Friday (except holidays)

☐ **YES,** please enter my subscription for one year to the **WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS (PD)** so I can keep up to date on Presidential activities.

☐ $96.00 First Class ☐ $55.00 Regular Mail

1. The total cost of my order is $_____. All prices include regular domestic postage and handling and are subject to change. International customers please add 25%.

Please Type or Print

2. _____
(Company or personal name)

_____
(Additional address/attention line)

_____
(Street address)

_____
(City, State, ZIP Code)

(_____) _____
(Daytime phone including area code)

3. Please choose method of payment:

☐ Check payable to the Superintendent of Documents

☐ GPO Deposit Account ☐☐☐☐☐☐☐–☐

☐ VISA or MasterCard Account

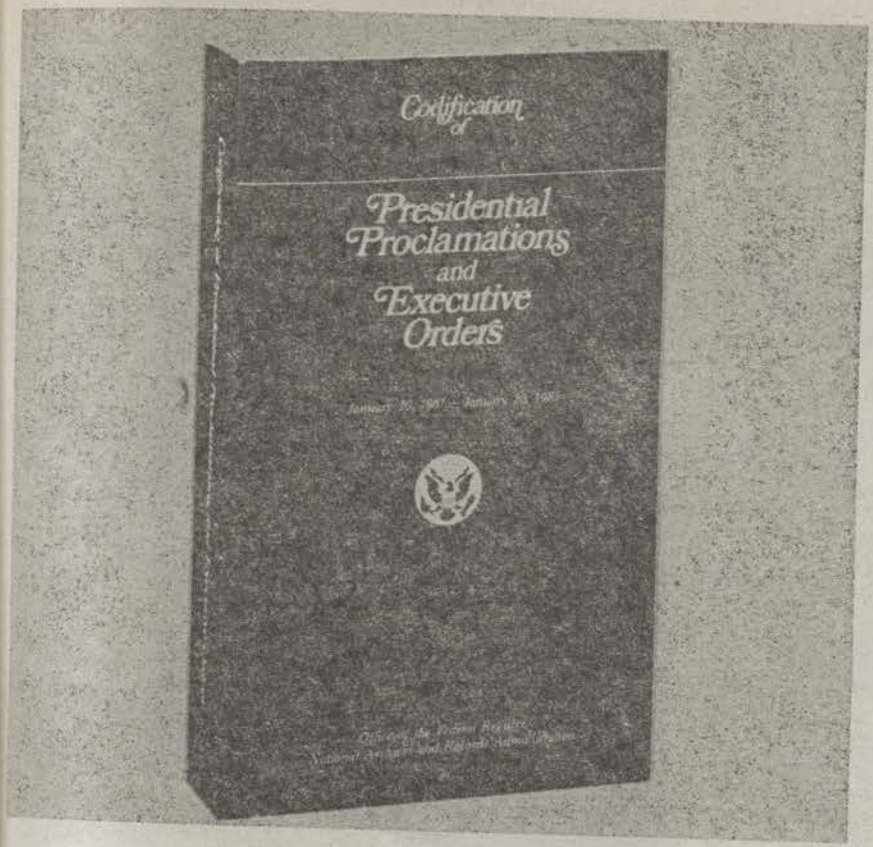
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

_____ ***Thank you for your order!***
(Credit card expiration date)

_____
(Signature) (Rev. 1-20-89)

4. Mail To: Superintendent of Documents, Government Printing Office, Washington, D.C. 20402-9371

.... Order now ! , , , ,



For those of you who must keep informed about **Presidential Proclamations and Executive Orders,** there is a convenient reference source that will make researching these documents much easier.

Arranged by subject matter, this edition of the *Codification* contains proclamations and Executive orders that were issued or amended during the period April 13, 1945, through January 20, 1989, and which have a continuing effect on the public. For those documents that have been affected by other proclamations or Executive orders, the codified text presents the amended version. Therefore, a reader can use the *Codification* to determine the latest text of a document without having to "reconstruct" it through extensive research.

Special features include a comprehensive index and a table listing each proclamation and Executive order issued during the 1945–1989 period—along with any amendments—an indication of its current status, and, where applicable, its location in this volume.

Published by the Office of the Federal Register, National Archives and Records Administration

---

Superintendent of Documents **Publications** Order Form

Order processing code:
* 6661

P3

Charge your order. It's Easy!

To fax your orders (202)–512–2250

☐ **YES**, please send me the following:

_____ copies of CODIFICATION OF PRESIDENTIAL PROCLAMATIONS AND EXECUTIVE ORDERS. S/N 069-000-00018-5 at $32.00 each.

The total cost of my order is $_____. International customers please add 25%. Prices include regular domestic postage and handling and are subject to change.

(Company or Personal Name) (Please type or print)

(Additional address/attention line)

(Street address)

(City, State, ZIP Code)

(Daytime phone including area code)

(Purchase Order No.)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents

☐ GPO Deposit Account ☐☐☐☐☐☐☐–☐

☐ VISA or MasterCard Account

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (Credit card expiration date)

Thank you for your order!

(Authorizing Signature)

(12/91)

Mail To: New Orders, Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250-7954